

# 2674

**Philadelphia Gas Works**

Gregory J. Stunder  
Senior Attorney



800 W. Montgomery Avenue, Philadelphia, PA 19122  
Telephone: (215) 684-6878 – Fax (215) 684-6798  
Email: greg.stunder@pgworks.com

April 18, 2008

Rec'd  
4/23/08  
3:07 p.m.

**VIA EXPRESS MAIL**

James J. McNulty - Secretary  
PA Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2nd Floor  
Harrisburg, PA 17120

Re: **Philadelphia Gas Works' Comments to the September 4, 2007 Proposed Rulemaking Order; Docket No. L-00070186**

Dear Secretary McNulty:

Enclosed for filing are an original and fifteen (15) copies of Philadelphia Gas Works' Comments to the September 4, 2007 Proposed Rulemaking Order.

If you have any questions, please contact me.

Respectfully submitted,

Gregory J. Stunder

Enclosure

cc: Patricia Krise Burket, Assistant Counsel (via e-mail)  
Michael Smith, Bureau of Consumer Services (via e-mail)  
Cyndi Page, Office of Communications (via e-mail)

**PENNSYLVANIA  
PUBLIC UTILITY COMMISSION  
Harrisburg, PA. 17105-3265**

**Proposed Rulemaking Relating to Universal Service and Energy Conservation Reporting Requirements, 52 Pa. Code §§ 54.71- 54.78 (electric); §§ 62.1-62.8 (natural gas) and Customer Assistance Programs, §§ 76.1 – 76.6**

**Docket No. L-00070186**

**COMMENTS OF PHILADELPHIA GAS WORKS  
TO THE SEPTEMBER 4, 2007 PROPOSED RULEMAKING ORDER**

**I. INTRODUCTION**

On September 4, 2007, the Pennsylvania Public Utility Commission (the “Commission”) issued a Proposed Rulemaking Order (the “September 4 Order”) setting forth the proposed revisions to the Universal Service and Energy Conservation Reporting Requirements at 52 Pa. Code §§ 62.1-62.7 and amends Title 52 by adding Chapter 76 titled “Customer Assistance Programs”. The September 4 Order and attached regulations (Appendix A) were published in the *Pennsylvania Bulletin* on February 9, 2008 (38 Pa.B. 776) and interested parties were given sixty days, or until April 9, 2008, to file written comments.

Philadelphia Gas Works (“PGW” or the “Company”) provides natural gas supply and natural gas distribution services to over 520,000 customers in the City and County of Philadelphia. PGW currently has a universal service and energy conservation plan which includes, pursuant to 52 Pa. Code 62.4(b), the Customer Responsibility Program (“CRP”), the Conservation Works Program (“CWP”), the Hardship Fund, and the Customer Assistance Referral and Evaluation Services (“CARES”). The CRP program provides natural gas service to

low income customers at a discount, based on percentage of household income and occupancy, consistent with the PUC's CAP program rules and guidelines.

PGW has reviewed the September 4 Order and supports many aspects of the proposed rulemaking. At the same time, PGW believes that the proposed regulations can be further clarified and strengthened in a number of important respects. The following comments are submitted with these objectives in mind.

## II. SECTION-BY-SECTION COMMENTS

### A. Chapter 62. Subchapter A. Universal service and energy conservation plan: Review, Funding and Reporting Requirements.

*Section 62.2.* This section defines a “confirmed low income residential account” and implies through this definition that low income customers are permitted to self certify their low income status. It is both imprudent and poor public policy to provide for self certification without providing a utility with some means to verify data. In fact, this Commission has already determined that a “self-certification” process is subject to fraud and is not acceptable in Pennsylvania. Re: Lifeline and Link-Up Programs, Docket No. M-00051871, Final Order entered May 23, 2005.<sup>1</sup> Self certification alone could also prove to increase abuse of this

---

<sup>1</sup> As part of its implementation of Act 183 and revamping of Lifeline generally, the Commission undertook to update its lifeline eligibility standards, ruling that customers could qualify on two separate bases:

1. Enrollment in a public assistance program (Medicaid, Federal Public Housing Assistance (Section 8), Low-Income Home Energy Assistance Program (LIHEAP), Supplemental Security Income (SSI), Food Stamps, Temporary Assistance to Needy Families (TANF), State Blind Pension, General Assistance or the National School Lunch Program); OR
2. Income at or below 135% of the Federal Poverty Guidelines (FPG).

*Re: Lifeline and Link-Up Programs*, Docket No. M-00051871, Final Order entered May 23, 2005.

A Pennsylvania telephone company verifies customer eligibility through one of two Pennsylvania government databases: the Department of Public Welfare’s (DPW) database identifies program participation; and the Department of Revenue (DOR) separately validates that the customer’s income meets the FPG standard (if the customer is not participating in one of the qualifying social assistance programs).

provision which would be unfair to other customers who would have to assume the burden of an increased subsidy. PGW recommends the adoption of the same verification standard as LIHEAP regulations which require proof of income and social security numbers for each household member.<sup>2</sup>

*Section 62.4(a)(4).* The proposed rulemaking, in Section 62.4(a) titled “Plan Submission”, removes the following sentence from 62.4(a)(4): “The plan should include revisions based on analysis of program experiences and evaluations.” PGW recommends that this sentence remain in the revised regulations. As a general principle, revisions should always be based on program data and experience.

*Sections 62.4(a)(5), 62.4(b)(4)(iv) and 76.4.1.* Section 62.4(a)(5) indirectly proposes that an NGDC recover costs related to universal service and energy conservation only from residential customers. The proposed Section 62.4(b)(4)(iv) more directly states that when a universal service and energy conservation cost recovery surcharge is proposed, the tariff filing must contain a “statement that the surcharge is applicable only to residential customers.” Further, proposed Section 76.4(1) states: “CAP costs shall be recoverable only from residential customers.” Currently, PGW recovers costs related to universal service and energy conservation from firm residential, commercial and industrial sales customers. This current recovery mechanism has been challenged in PGW rate proceedings, but approved by the Commission in spite of such objections, as set forth in detail below. The implementation of this proposed regulation would shift a significant cost burden to residential customers even though there exists a viable, approved alternative. In fact, PGW has calculated the impact of shifting these costs from all three customer classes to residential customers alone based upon actual FY 2007 CAP data and found that if residential customers had paid all CAP costs in FY 2007, the surcharge for

---

<sup>2</sup> 55 Pa.Code § 601.101, § 601.102 and § 601.105.

provision which would be unfair to other customers who would have to assume the burden of an increased subsidy. PGW recommends the adoption of the same verification standard as LIHEAP regulations which require proof of income and social security numbers for each household member.<sup>2</sup>

*Section 62.4(a)(4).* The proposed rulemaking, in Section 62.4(a) titled “Plan Submission”, removes the following sentence from 62.4(a)(4): “The plan should include revisions based on analysis of program experiences and evaluations.” PGW recommends that this sentence remain in the revised regulations. As a general principle, revisions should always be based on program data and experience.

*Sections 62.4(a)(5), 62.4(b)(4)(iv) and 76.4.1.* Section 62.4(a)(5) indirectly proposes that an NGDC recover costs related to universal service and energy conservation only from residential customers. The proposed Section 62.4(b)(4)(iv) more directly states that when a universal service and energy conservation cost recovery surcharge is proposed, the tariff filing must contain a “statement that the surcharge is applicable only to residential customers.” Further, proposed Section 76.4(1) states: “CAP costs shall be recoverable only from residential customers.” Currently, PGW recovers costs related to universal service and energy conservation from firm residential, commercial and industrial sales customers. This current recovery mechanism has been challenged in PGW rate proceedings, but approved by the Commission in spite of such objections, as set forth in detail below. The implementation of this proposed regulation would shift a significant cost burden to residential customers even though there exists a viable, approved alternative. In fact, PGW has calculated the impact of shifting these costs from all three customer classes to residential customers alone based upon actual FY 2007 CAP data and found that if residential customers had paid all CAP costs in FY 2007, the surcharge for

---

<sup>2</sup> 55 Pa.Code § 601.101, § 601.102 and § 601.105.

residential customers would have increased by \$29 million for FY 2007 or approximately \$77 per residential customer. Moreover, the proposed regulation would directly contradict this Commission's Opinion and Order in PGW's 2007 base rate case in which the PUC rejected an attempt to impose CAP costs only on residential customers. Specifically, the Opinion stated:

**b. ALJs' Recommendation.** The ALJs found that the OSBA was correct that previous Commission proceedings involving PGW reserved the USEC allocation issue for a proceeding in which a COSS would be placed on the record. The ALJs noted that there is a COSS in this record and the issue can be decided here. Nonetheless, the ALJs also determined "based on the amount of the increase and the revenue allocation that we are proposing, the OSBA's proposal would be overwhelming to the residential customers." R.D. at 80. The ALJs recognized that the OSBA was recommending a phased-in approach. But the ALJs found that the recommended increase in base rates plus the resulting increase in the Gas Cost Rate would "result in rate shock." *Id.* at 81. On that basis, the ALJs recommended that PGW's current allocation of universal service costs be retained. *Id.*

\* \* \* \*

**d. Disposition.** We will adopt the ALJs' recommendation regarding allocation of the USEC program. We agree with the ALJs' reasoning that a realignment of the costs in this proceeding would simply overburden the residential classes given that we are adopting the ALJs' recommendation regarding allocation of the \$25 million increase. Because that substantial realignment goes far to bring all rate classes closer to a cost of service basis, we find that our decision on this one issue is consistent with the principles enunciated in *Lloyd*. As we have noted, *Lloyd* has not eliminated the principles of rate shock and gradualism, but it has required that we be guided primarily by cost of service. In the over-all context of this proceeding, one can hardly argue that application of the principles of gradualism and rate shock concerns to this one issue depart from *Lloyd* given the revenue allocation approach adopted for the primary \$25 million increase.<sup>3</sup>

Thus, this Commission has clearly indicated that it does not want to further burden PGW residential ratepayers with an increased level of Universal Services Surcharge at this time and that the only way to appropriately shift CAP costs to residential ratepayers is to review the

---

<sup>3</sup> *PA PUC, et al. v. PGW*, R-00061931, September 28, 2007 Opinion and Order, p.88.

impact coupled with a Cost Of Service Study (“COSS”) base rate allocation. The Commission did shift costs to residential customers pursuant to that COSS in an attempt to partially remedy cross-subsidies among rate classes.<sup>4</sup> The Commission has made it plain that it seeks to avoid substantial increases to PGW residential ratepayers such as the likely \$29 million rate increase for the sole purpose of making only the residential class pays for CAP costs. Shifting CAP costs among rate classes by regulation alone is entirely inappropriate. PGW recommends either removal of the above-referenced provisions, including language which specifies that the regulation is not intended to change the CAP rate structure for any utility, or adopting an exception for PGW so that any shifting of CAP costs must be approved within the context of a base rate proceeding.

*Section 62.4(a)(6).* PGW concurs with the EAPA comment requesting inclusion of language that defines a time frame for plan approval. Specifically, EAPA recommends that the following be included in Section 62.4(a)(6): “The Commission will act on the plan within 180 days of the NGDC filing date of its revised tariff.” PGW also requests an additional provision, providing a rule similar to the suspension of rate changes in 66 Pa.C.S.A. §1308(b), that if the filing is not suspended by the Commission within 60 days of the NGDC filing date, the filing and plan are deemed approved by the Commission.

*Section 62.4(b).* This section sets forth the “Tariff Contents” that must be included in an updated universal service and energy conservation plan in the form of a tariff filing every three years. The list of Tariff Contents provided in Section 62.4(b) is fairly comprehensive and mostly includes supporting data and other information that is appropriately provided in a universal service and energy conservation plan, not a gas service tariff. PGW respectfully submits that the following sampling of “Tariff Contents” outlined in Section 62.4(b) are not appropriate for

---

<sup>4</sup> *PA PUC, et al. v. PGW*, R-00061931, PGW’s October 18, 2007 Compliance Filing, Attachment A.

inclusion in PGW's Gas Service Tariff: 1) needs assessment; 2) the number of identified low income customers; 3) an estimate of low income customers; 4) the number of identified payment troubled low income customers; 5) an estimate of payment troubled low income customers; 6) enrollment size of CAP to serve all eligible customers; 7) projected enrollment levels; 8) the program budget; 9) plans to use community-based organizations; 10) the organizational structure of staff responsible for universal service programs; etc. Although PGW's current tariff does contain information concerning CAP eligibility, program requirements and applicable rates along with eligibility requirement for its conservation works program (See Appendix B), there is a fundamental difference between language appropriate for a tariff and that proposed in this section. Tariffs contain rates and rules, not general information or background data or service territory demographics, as suggested in this proposed rule.<sup>5</sup> Certainly, the Commission does not intend to add such things as program budgets and CAP staffing structure to PGW's Gas Service Tariff. This would be akin to including a Cost of Service Study and a company organizational chart in a company's gas service tariff after new base rates are implemented. PGW recommends modification of the proposed regulation in a manner that comports with the definition of "tariff" set forth in 66 Pa.C.S. §102.

*Section 62.4(b(3)).* This section requires the tariff filing to contain documentation of cost savings that result from customer participation in low income programs, to the extent savings exist. Please see the Section 76.4(3)(i) to (iv) comment below regarding cost savings.

---

<sup>5</sup> The term "tariff" is a statutorily defined term that is limited to rates, rules, regulations, practices and contracts:

Tariff: All schedules of rates, all rules, regulations, practices, or contracts involving any rate or rates, including contracts for interchange of service . . . ."

66 Pa. C.S. § 102. The Commission's regulations on filing of tariffs also notes that tariffs normally consist of the utility's rules and regulations, and its rate schedules. *See generally*, 52 Pa. Code §§ 53.25 and 53.26.



*Section 62.6(a).* This section requires that an NGDC confer with BCS before selecting an independent third-party to conduct an impact evaluation of its universal service and energy conservation programs and to provide a report of findings and recommendations to the Commission and the NGDC. PGW, as a municipal utility, employs a Request for Proposal process when selecting an impact evaluator. It is important to note, that if BCS participates in the selection process in any manner, it exposes the Commission to involvement in any "disappointed bidder" or other litigation. Additionally, BCS involvement in evaluator selection may: compromise a utility's selection criteria; result in the selection of an evaluator that is not truly independent; and affect the market prices of independent evaluations. Further, BCS involvement risks narrowing the ideas presented, making the process less prone to present a diversity of positions with the potential for excluding new solutions to problems. PGW suggests that this section be modified to require that BCS be informed of the selection of an independent third party after the selection has been made by the utility.

**B. Chapter 76. Customer Assistance Programs.**

*Section 76.2.* PGW recommends that the Chapter 76 definitions section include the definition of "low income customer" from Section 62.2.

*Section 76.3(a).* This section requires an NGDC to "obtain Commission approval prior to implementing a CAP plan, or a revision or expansion of an existing CAP." Given that CAP approval processes can take months and sometimes years and proceed without a prescribed time period, PGW respectfully submits that minor revisions that either benefit customers or negatively impact customers if not timely implemented should be permitted -- especially when considering that many such revisions come from BCS and consumer advocate suggestions.

*Section 76.4(3)(i) to (iv)*. This section requires that CAP costs be offset by CAP-related cost savings in cash working capital, bad debt expense, credit costs and collections costs. This directly contradicts Commission precedent which prohibits the tracking of changes in single expense items for inclusion in CAP costs. In response to a prior attempt by PGW to include changes in its bad debt expense in its universal service cost recovery mechanism the PUC specifically ruled that PGW could not include such costs in its clause because bad debt expense "is not specifically a program designed for the benefit of low-income customers," and that "bad debt expense is traditionally recovered in base rates... ." <sup>6</sup>

The only other legal basis for creating what is essentially an automatic adjustment mechanism to track changes in cash working capital, bad debt expense, credit costs and collections costs is section 1307 of the Code. The proposed regulation, however, would violate numerous PUC and court decisions rejecting the use of a section 1307 automatic adjustment clause mechanism for costs that normally are recovered in base rates unless a statute specifically authorizes such a surcharge. <sup>7</sup> Moreover, in several cases, the Commission has rejected such attempts as single issue ratemaking or retroactive ratemaking. <sup>8</sup> Indeed, in 2004, the PUC refused

---

<sup>6</sup> *Pa. PUC v. PGW*, M-00021612 (March 31, 2003) at 59.

<sup>7</sup> *Popowsky v. Pa. PUC*, 869 A.2d 1144, 1160, {Pa. Commw. 2005} ("As we have previously held, a Section 1307(a) automatic rate adjustment is appropriate where expressly authorized, as in 66 Pa. C.S. § 1307(g), or for easily identifiable expenses that are beyond a utility's control, such as tax rate changes or changes in the costs of fuel.") If section 1307 does not permit such a clause then the PUC was without authority to add this item to PGW's existing USC, as that clause was enacted pursuant to 66 Pa. C.S. § 2212(h)(2) which does not authorize the recovery (or the refunding to customers) of uncollectible expense changes as a result of changes in PGW's level of universal service participants. In fact, and as noted, the Commission specifically rejected an attempt by PGW to include such a provision within its USC clause, when the clause was first authorized! *See*, ft. 134, *supra*.

<sup>8</sup> *National Fuel Gas Distribution Corp. v. Pa. P.U.C.*, 464 A.2d 546, 567 (Pa. Commw. 1983) (customers not entitled to refunds if one item of revenue is greater or one item of expense is less than anticipated when utility's tariff approved, and utility not entitled to rate relief if expense items are greater or revenue items are less than anticipated when tariff approved); *Pike County Light & Power Company v. Pa. P.U.C.*, 487 A.2d 118, 121 (Pa. Commw. 1985) (PUC may not establish rates to recover surpluses or refund deficiencies created by inaccuracies in prior rate authorizations); *Philadelphia Electric Company v. Pa. P.U.C.*, 502 A.2d 722, 727-28 (Pa. Commw. 1985) (no line by line examination of relative success or failure of whether utility accurately projected particular items of expense or revenue); *Pennsylvania Industrial Energy Coalition v. Pennsylvania Public Utility Commission*, 653 A.2d 1336, 1350 (Pa. Commw. 1995) ("Single-issue ratemaking is similar to retroactive ratemaking and, in general, is prohibited if it impacts on a matter that is normally considered in a base rate case.").

to permit PGW to implement a broader surcharge mechanism that would have adjusted rates to the extent that PGW's actual collections fell below its bad debt expense allowance in its base rates (the Cash Receipts Reconciliation Clause, or "CRRC") on several grounds, including that "[the requested clause] is not the type of automatic adjustment that should be permitted under Section 1307 of the Code... ." <sup>9</sup> The Commission also found that an automatic adjustment clause for uncollectible expense would violate its long-standing prohibition against "single issue ratemaking."<sup>10</sup>

The PUC's observation applies with the same force to the proposed regulation. From year to year, PGW may experience a reduction in cash working capital, bad debt expense, credit costs and collections costs because of increases in the number of CRP customers – but it likely will see increases in a host of other expenses that will not be adjusted upward under the proposed regulation. Here the unfairness is exacerbated because the PUC's proposed regulation would require PGW to give credits to customers if its bad debt expense cost savings, for example, can somehow be attributed to the CAP -- but would not permit similar adjustments if its bad debt expense goes up (or down) for other reasons, such as for general changes in revenues because of changes in natural gas prices or changes in the economy. PGW urges that this section clearly acknowledge that any "offsets" may not be included in a utility's Universal Service adjustment mechanism unless they are fully discussed and litigated in a utility's base rate proceeding.

---

<sup>9</sup> *Petition of the Philadelphia Gas Works to Establish a Cash Receipts Reconciliation Clause*, Docket No. P-00040290, Order entered July 8, 2004, at 12-13 ("CRRC Order"): "The CRRC is designed to collect increases in PGW's uncollectible expense above the projected amount contained in PGW's last base-rate case." The PUC described PGW's proposed CRRC as "a unique method of recovery for expenses normally recovered through base rates" (*Id.* at 8) and a departure "from adherence to Pennsylvania ratemaking law and principles." *Id.* at 10, 11. The PUC also concluded that its broad authority to establish automatic rate adjustment clauses "may not be used to disassemble the traditional ratemaking process." *Id.* at 11-12 (citing *Pennsylvania Industrial Energy Coalition v. Pennsylvania Public Utility Commission*, 653 A.2d 1336, 1348 (Pa. Commw. 1995)). That is what the PUC's mechanism would do.

<sup>10</sup> *Id.* at 14.

*Section 76.5(a).* This section proposes that failure of a CAP customer to apply for LIHEAP **shall** result in dismissal from CAP participation. PGW recommends that each utility be provided with the discretion to deal with each CAP customer on an individual basis thereby permitting the utility to take into account all circumstances. The basis for this recommendation is twofold. First, CAP participants oftentimes are served by more than one utility. If a CAP participant applies a LIHEAP grant to the other utility, the proposed regulation would deny CAP participation with the utility not assigned the grant. Second, this year's closing of the LIHEAP program in mid-March rather than in April provides a situation in which CAP participants would have been inappropriately dismissed from CAP due to the unexpected early closure of LIHEAP. As a result of the foregoing, PGW requests that failure of a CAP customer to apply for LIHEAP **may** (instead of **shall**) result in dismissal from CAP participation.

*Section 76.5(b).* This section proposes that "failure of a CAP customer to make payments shall result in dismissal from CAP participation..." The proposed dismissal prior to termination contradicts current Commission policy. PGW recommends that the language be amended to provide that the CAP customer will be removed from the program only upon termination.

CAP participants who default on CAP payments should be placed into the collection cycle and removed from the program if terminated. This would provide the participant the opportunity to pay the missed payments and would not force the utility to remove the household from the program and then reinstate, resulting in extra administrative time and expense. The extra administrative step of removing and then reinstating a CAP participant adds expense which would be borne by other residential customers.

*Section 76.6.* The section applies 66 Pa.C.S.A. § 1407 when a CAP customer's service has been terminated for nonpayment. Implementation of this section will result in an increased

burden upon customers who pay for CAP costs and will permit CAP customers to re-enroll in CAP with an increased arrearage forgiveness amount. The following example will demonstrate how this can occur. Assume that a customer enters CAP with an \$1,800 arrearage balance and the customer's monthly "asked-to-pay" amount is \$100 based upon a percentage of income calculation. The customer fails to pay any amount and service is terminated after four months. In order to restore service, PGW's procedures – which is consistent with Chapter 14 – require that this customer pay the cure amount of \$400 (i.e. 4 months times the \$100 monthly "asked-to-pay" amount) plus the reconnection fee. When Section 76.6 is applied to this example, the customer will only be required to pay the reconnection fee and agree to pay the outstanding balance over 24 months. The customer can then immediately apply for CAP with an increased arrearage amount of \$2,200 (i.e. the original arrearage amount of \$1,800 plus the four missed payments totaling \$400). As a result, the burden on non-CAP ratepayers (who pay the Universal Services Surcharge) has increased by the \$400 which was originally supposed to be paid by the CAP customer in the monthly ask-to-pay amount. Essentially, Section 76.6 will permit CAP customers to not pay their monthly ask to pay amounts for several months before termination only to ultimately re-enter CAP with a greater arrearage balance to be forgiven. Such customers therefore actually would have a new incentive not to pay. This is an end run around current CAP procedures and certainly could not have been intended by the implementation of this regulation. PGW recommends removing Section 76.6 for the aforementioned reasons.

### **III. CONCLUSION**

PGW appreciates the opportunity to provide comments to the proposed rulemaking and the Company look forward to continuing to work with the Commission and other stakeholders

on these critical issues. We respectfully request that the Commission incorporate our suggestions into the proposed regulations.

Respectfully Submitted,

---

Gregory J. Stunder, Esquire  
Philadelphia Gas Works  
800 West Montgomery Avenue  
Philadelphia, PA 19122  
(215) 684-6878

Attorney for Philadelphia Gas Works

Of Counsel:  
Daniel Clearfield, Esquire  
Wolf, Block, Schorr and Solis-Cohen LLP  
213 Market Street – 9<sup>th</sup> Floor  
Harrisburg, PA 17101  
(717) 237-7160

Date: April 18, 2008

Annex A

TITLE 52. PUBLIC UTILITIES

PART I. PUBLIC UTILITY COMMISSION

Subpart C. FIXED SERVICE UTILITIES

CHAPTER 54. ELECTRICITY GENERATION CUSTOMER CHOICE

Subchapter C. UNIVERSAL SERVICE AND ENERGY CONSERVATION PLAN: REVIEW,  
FUNDING AND REPORTING REQUIREMENTS

§ 54.71. Statement of purpose and policy.

[Section] The requirements of 66 Pa.C.S. § 2804(9) [of the code] (relating to standards for [restructuring] restructuring of electric industry) [mandates] mandate that the Commission ensure universal service and energy conservation policies, activities and services for residential electric customers are appropriately funded and available in each EDC territory. **This subchapter establishes a unified process which allows the Commission, in the context of its review of an EDC's universal service and energy conservation plan, to approve an adequate level of program funding, to determine the types and amount of program costs recoverable from residential customers and to approve a mechanism for full cost recovery.** This subchapter requires covered EDCs to establish uniform reporting requirements for universal service and energy conservation policies, programs and protections and to report this information to the Commission.

§ 54.72. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

*BCS--Bureau of Consumer Services.*

*CAP--Customer Assistance Program--*[An alternative collection method that provides payment assistance to low-income, payment troubled utility customers. CAP participants agree to make regular monthly payments that may be for an amount that is less than the current bill in exchange for continued provision of electric utility services.] A plan implemented by a distribution company for the purpose of providing universal service and energy conservation services to low income customers, in which the customers shall:

- (i) Make monthly payments based on household income and household size.
- (ii) Comply with specific responsibilities to remain eligible for the program.

\* \* \* \* \*

*CARES--Customer Assistance and Referral Evaluation Services--*A program that provides a cost-effective service that helps selected, payment-troubled customers maximize their ability to pay utility

bills. A CARES program provides a casework approach to help customers secure energy assistance funds and other needed services.

*CARES benefits*--The number **[and kinds]** of referrals **[to]** and **number of customers accepted into CARES.**

*Classification of accounts*--Accounts are classified by the following categories: all residential accounts and confirmed **[low-income] low income** residential accounts.

\* \* \* \* \*

*Confirmed [low-income] low income residential account*--Accounts where the EDC has obtained information that would reasonably place the customer in a **[low-income] low income** designation. **This information may include receipt of LIHEAP funds, self-certification by the customer, income source or information obtained in § 56.97(b) (relating to procedures upon ratepayer or occupant contact prior to termination).**

\* \* \* \* \*

*Distribution company*--A natural gas distribution company or an electric distribution company.

*EDC*--*Electric distribution company*--The **[public utility] distribution company** providing facilities for the jurisdictional transmission and distribution of electricity to retail customers, except building or facility owners/operators that manage the internal distribution system serving the building or facility and that supply electric power and other related electric power services to occupants of the building or facility.

\* \* \* \* \*

*LIHEAP*--*Low Income Home Energy Assistance Program*--A Federally funded program that provides financial assistance in the form of cash and crisis grants to low income households for home energy bills and is administered by the Department of Public Welfare.

*LIURP*--*[Low-income usage reduction program] Low Income Usage Reduction Program*--**[An energy usage reduction]** A program that assists **[low-income] low income** customers to conserve energy and reduce residential energy bills **established by a distribution company consistent with Chapter 58 (relating to residential low income usage reduction programs).**

**[Low-income] Low income** customer--A residential utility customer whose **gross** household income is at or below 150% of the Federal poverty guidelines. **Gross household income does not include the value of food stamps or other noncash income.**

*Outreach referral contacts*--**[Addresses and telephone numbers]** An **address and telephone number** that a customer would call or write to apply for the hardship fund. Contact information should be specific to each county in the EDC's service territory, if applicable.

*Payment rate*--**[Payment rate is the]** **The** total number of full monthly payments received from CAP participants in a given period divided by the total number of monthly bills issued to CAP participants.



*Payment troubled*--A household that has failed to maintain one or more payment arrangements in a 1-year period **or has received a termination notice**.

*Residential account in arrears*--A residential account that is at least 30 days overdue. This classification includes all customer accounts which have payment arrangements.

*Successful payment arrangements*--A payment arrangement in which the agreed upon number of payments have been made in full in the **[preceeding] preceding** 12 months.

*Universal service and energy conservation*--**[Policies, protections and services that help low-income customers to maintain electric service. The term includes customer assistance programs, termination of service protection and policies and services that help low-income customers to reduce or manage energy consumption in a cost-effective manner, such as the low-income usage reduction programs, application of renewable resources and consumer education.] The term as defined in 66 Pa.C.S. § 2803 (relating to definitions).**

**§ 54.73. Universal service and energy conservation program goals.**

\* \* \* \* \*

(b) The general goals of universal service and energy conservation programs include the following:

(1) To protect consumers' health and safety by helping **[low-income] low income** customers maintain **affordable** electric service.

(2) To provide for affordable electric service by making available payment assistance to **[low-income] low income** customers.

(3) To assist **[low-income] low income** customers **[conserve] in conserving** energy and **[reduce] reducing** residential utility bills.

(4) To establish universal service and energy conservation programs **that** are operated in a cost-effective and efficient manner **to minimize overall program costs**.

**§ 54.74. [Universal] Review of universal service and energy conservation plans, funding and cost recovery.**

(a) *Plan submission.*

(1) **[Each] An** EDC shall submit to the Commission for approval an updated universal service and energy conservation plan **in the form of a tariff filing** every 3 years **[beginning February 28, 2000, on a staggered schedule]**.

(2) The plan **[should cover] must provide for universal service and energy conservation for the next 3-calendar years**.

(3) **An EDC shall file its universal service and energy conservation plan in the form of a tariff filing. The tariff filing must conform with applicable regulations in Chapters 53 and 76 (relating to**

tariffs for noncommon carriers; and customer assistance programs). The plan should state how it differs from the previously approved plan.

(4) [The plan should include revisions based on analysis of program experiences and evaluations.] An EDC shall consult BCS for advice regarding the design and implementation of its plan at least 30 days prior to submission of the plan to the Commission for approval.

(5) In the proceeding on the plan, the Commission will establish a funding level that balances efforts to ensure the availability of universal service and energy conservation programs throughout an EDC's service territory with the cost of the programs and the rate impact on residential customers that are not enrolled in the programs, and will permit an EDC to recover costs related to universal service and energy conservation from residential customers. The Commission will approve recovery of CAP costs consistent with § 76.4 (relating to recovery of costs of customer assistance programs). [If the Commission rejects the plan, the EDC shall submit a revised plan under the order rejecting or directing modification of the plan as previously filed. If the order rejecting the plan does not state a timeline, the EDC shall file its revised plan within 45 days of the entry of the order.

(6) The Commission will act on the plans within 90 days of the EDC filing date.]

(b) [Plan] *Tariff contents*. The tariff must include the following information:

(1) [The components of] *General requirements*. A universal service and energy conservation plan that may include [the following:] a CAP, LIURP, CARES, Hardship Funds [and] or other programs, policies and protections consistent with Commission orders, regulations and other applicable law. For each component of [universal service and energy conservation,] the plan [shall include, but not be limited to], the following information shall be submitted:

[(1) Program] (i) The program description including an explanation of the manner and the extent to which the universal service or energy conservation component operates in an integrated manner with other components of the plan to accomplish the goals stated in § 54.73 (relating to universal service and energy conservation program goals).

[(2) Eligibility] (ii) The eligibility criteria.

[(3) Projected] (iii) The projected needs assessment. The needs assessment must include:

(A) The number of identified low income customers.

(B) An estimate of low income customers.

(C) The number of identified payment troubled, low income customers.

(D) An estimate of payment troubled, low income customers.

(E) The number of customers who still need LIURP services and the cost to serve that number.

(F) The enrollment size of the CAP to serve all eligible customers.

[(4) Projected] (iv) The projected enrollment levels.

[(5) Program] (v) The program budget.

[(6) Plans] (vi) The plans to use community-based organizations.

[(7) Organizational] (vii) The organizational structure of staff responsible for universal service programs.

[(8) Explanation] (viii) An explanation of [any] differences between the EDC's approved plan and the implementation of that plan. The [EDC should] plan must include a [plan] proposal to address [those] the identified differences. When an EDC has not implemented all of the provisions of an approved plan, the EDC shall provide a justification for that failure and plans for corrective action. When an EDC is requesting approval of a revised plan, the EDC shall provide a justification of the revisions in its request for approval.

(ix) A description of outreach and intake efforts, including the specific steps used to identify low income customers with arrears and to enroll them in appropriate universal service and energy conservation programs.

(2) *Program rules.* The tariff must contain rules that apply to the universal service and energy conservation programs. The rules must be consistent with the code, applicable Commission regulations, orders and other applicable law. The rules must address the following:

(i) Program eligibility.

(ii) Enrollment process.

(iii) Customer responsibilities for continued program participation.

(iv) Coordination of energy assistance benefits including the application of LIHEAP grants.

(v) Arrearage forgiveness.

(vi) Dismissal from the program, including default rules in § 76.5 (relating to default provisions for failure to comply with program rules).

(vii) Reinstatement to the program.

(viii) Termination of service.

(ix) Restoration of service.

(x) Treatment of CAP customers who become income ineligible for continued participation.

(xi) Other matters required for the implementation and operation of the program.

(3) *Documentation in support of funding and cost recovery for universal service and energy conservation.* The tariff filing must contain documentation of costs for the EDC's existing universal

service and energy conservation program and a projection of costs for the next 3 years. The cost projection must take into account changes proposed to be made to the programs and the impact of their implementation on costs. The tariff filing must contain documentation of cost savings that result from customer participation in these programs, to the extent that savings exist.

(4) *Surcharge.* An EDC may propose a surcharge under 66 Pa.C.S. § 1307 (relating to sliding scale of rates; adjustments) to provide for full recovery of universal service and energy conservation costs. The surcharge may be subject to annual reconciliation or may be adjusted prospectively on a quarterly basis as required by changes in the level of costs incurred. When a surcharge is proposed, the tariff filing must contain:

(i) A description of the surcharge, a list of the specific costs proposed for recovery, and, when applicable, an adjustment mechanism. Consistent with 66 Pa.C.S. § 1408 (relating to surcharges for uncollectible expenses prohibited), the surcharge may not recover uncollectible expenses.

(ii) A statement of the time period after which the surcharge becomes effective for service referenced from the date of the filing of the tariff.

(iii) Calculations based on current and projected costs that support the use of the surcharge and the adjustment mechanism, when applicable.

(iv) A statement that the surcharge is applicable only to residential customers.

**§ 54.75. Annual residential collection and universal service and energy conservation program reporting requirements.**

[Each] An EDC shall report annually to the Commission on the degree to which universal service and energy conservation programs within its service territory are available and appropriately funded. Annual EDC reports [shall] must contain information on programs and collections for the prior calendar year. Unless otherwise stated, the report shall be due April 1 each year [, beginning April 1, 2001]. [Where] When noted, the data shall be reported by classification of accounts as total residential customers and confirmed low income residential customers. [Each] An EDC's report [shall] must contain the following information:

(1) *Collection reporting.* Collection reporting [shall] must be categorized as follows:

\* \* \* \* \*

(vi) The total dollar amount of annual residential revenues by classification of accounts.

(vii) The total number of residential accounts in arrears and on payment agreements by month for the 12 months covered by the report, by classification of accounts.

(viii) The total number of residential accounts in arrears and not on payment agreements by month for the 12 months covered by the report, by classification of accounts.

(ix) The total dollar amount of residential accounts in arrears and on payment agreements by month for the 12 months covered by the report, by classification of accounts.

[(vi)] (x) The total dollar amount of residential accounts in arrears **and not on payment agreements** by month for the 12 months covered by the report, by classification of accounts.

[(vii)] (xi) The total number of residential customers who are payment troubled by month for the 12 months covered by the report, by classification of accounts.

[(viii)] (xii) The total number of terminations completed by month for the 12 months covered by the report, by classification of accounts.

[(ix)] (xiii) The total number of reconnections by month for the 12 months covered by the report, by classification of accounts.

[(x)] (xiv) The total number of **[low-income] low income** households. EDCs may estimate this number using census data or other information the EDC finds appropriate.

(2) **Program reporting.** Program reporting **[shall] must** be categorized as follows:

(i) For **[each] a** universal service and energy conservation component, program data **[shall] must** include information on the following:

\* \* \* \* \*

(B) Program recipient demographics, including the number of **[family] household** members under **[age] 18 years of age** and **[over age] 62 [family] years of age or older, household** size, income and source of income.

\* \* \* \* \*

**(D) The number of program participants by source of intake.**

**(E) The number of program participants participating in two or more of the EDC's universal service and energy conservation programs, broken down by program component.**

(ii) Additional program data for individual universal service and energy conservation components **[shall] must** include the following information:

(A) LIURP. Reporting requirements as established **[at] in** § 58.15 (relating to program evaluation).

(I) LIURP reporting data shall be due **annually** by April 30.

(II) Actual **[production] number of completed jobs** and spending data for the recently completed program year and projections for the current year shall be due annually by the end of February.

\* \* \* \* \*

(D) *Hardship funds.*

\* \* \* \* \*

(II) Special contributions, **other than shareholder or ratepayer contributions.**

\* \* \* \* \*

**§ 54.76. Evaluation reporting requirements.**

(a) **[Each] An EDC shall [have] select, after conferring with BCS,** an independent third-party to conduct an impact evaluation of its universal service and energy conservation programs and **to provide a report of findings and recommendations to the Commission and EDC.**

(b) **[The first impact evaluation will be due beginning October 31, 2002, on a staggered schedule. Subsequent evaluation reports shall be presented to the EDC and the Commission at no more than 6 year intervals.] An EDC shall submit an impact evaluation report to the Commission every 6 years. When an EDC is required to submit an impact evaluation in the same year as it is required to file its universal service and energy conservation plan, the EDC shall file the impact evaluation report 6 months prior to the filing date for the universal service and energy conservation plan.**

(c) To ensure an independent evaluation, neither the EDC nor the Commission shall exercise control over content or recommendations contained in the independent evaluation report. The EDCs may **[provide] submit to the Commission [with] a companion report that expresses where [they agree or disagree] there is agreement or disagreement with the independent evaluation report content or recommendations.**

**[(d) An independent third-party evaluator shall conduct the impact evaluation.]**

**§ 54.77. [Electric distribution companies] EDCs with less than 60,000 residential accounts.**

**[Beginning March 1, 2000, each] An EDC with less than 60,000 accounts shall report to the Commission every 3 years the following information in lieu of the requirements in §§ 54.74--54.76 (relating to review of universal service and energy conservation plans, **funding and cost recovery**; annual residential collection and universal service and energy conservation program reporting requirements; and evaluation reporting requirements):**

\* \* \* \* \*

(2) **[Expenses] The expenses** associated with **[low-income] low income** customers.

(3) A description of the universal service and energy conservation services provided to **[low-income] low income** residential customers.

(4) The number of services or benefits provided to **[low-income] low income** residential customers.

(5) The dollar amount of services or benefits provided to **[low-income] low income** residential customers.

**CHAPTER 62. NATURAL GAS SUPPLY CUSTOMER CHOICE**

**Subchapter A. UNIVERSAL SERVICE AND ENERGY CONSERVATION PLAN: REVIEW, FUNDING AND REPORTING REQUIREMENTS**

§ 62.1. Statement of purpose and policy.

The requirements of 66 Pa.C.S. § 2203(8) (relating to standards for restructuring of natural gas utility industry) mandate that the Commission ensure universal service and energy conservation policies, activities and services for residential natural gas customers are appropriately funded and available in each NGDC territory. **This subchapter establishes a unified process which allows the Commission, in the context of its review of an NGDC's universal service and energy conservation plan, to approve an adequate level of program funding, to determine the types and amount of program costs recoverable from residential customers and to approve a mechanism for full cost recovery.** This subchapter requires covered NGDCs to establish uniform reporting requirements for universal service and energy conservation policies, programs and protections and to report this information to the Commission.

§ 62.2. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

*BCS--Bureau of Consumer Services.*

\* \* \* \* \*

*CAP--Customer Assistance Program--*[An alternative collection method that provides payment assistance to low-income, payment troubled utility customers. CAP participants agree to make regular monthly payments that may be for an amount that is less than the current bill in exchange for continued provision of natural gas utility services.] A plan implemented by a distribution company for the purpose of providing universal service and energy conservation services to low income customers, in which the customers shall:

- (i) Make monthly payments based on household income and household size.
- (ii) Comply with specific responsibilities to remain eligible for the program.

[*CARES benefits--*The number of referrals and number of customers accepted into CARES.]

\* \* \* \* \*

*CARES benefits--*The number of referrals and number of customers accepted into CARES.

*Classification of accounts--*Accounts are classified by the following categories: all residential accounts and confirmed [**low-income**] **low income** residential accounts.

\* \* \* \* \*

*Confirmed [**low-income**] low income residential account--*Accounts where the NGDC has obtained information that would reasonably place the customer in a [**low-income**] **low income** designation. This information may include receipt of LIHEAP funds ([**Low-Income**] **Low Income** Home Energy Assistance Program), self-certification by the customer, income source or information obtained in § 56.97(b) (relating to procedures upon ratepayer or occupant contact prior to termination).

\* \* \* \* \*

**LIHEAP--Low Income Home Energy Assistance Program--**A Federally funded program that provides financial assistance in the form of cash and crisis grants to low income households for home energy bills and is administered by the Department of Public Welfare.

**LIURP--[Low-income] Low Income Usage Reduction Program--**An energy usage reduction program that helps [low-income] low income customers to conserve energy and reduce residential energy bills established by a distribution company consistent with Chapter 58 (relating to residential low income usage reduction programs).

**[Low-income] Low income customer--**A residential utility customer whose gross household income is at or below 150% of the Federal poverty guidelines. Gross household income does not include the value of food stamps or other noncash income.

\* \* \* \* \*

**Payment troubled--**A household that has failed to maintain one or more payment arrangements in a 1-year period or has received a termination notice.

\* \* \* \* \*

**§ 62.3. Universal service and energy conservation program goals.**

\* \* \* \* \*

(b) The general goals of universal service and energy conservation programs include the following:

(1) To protect consumers' health and safety by helping [low-income] low income customers maintain affordable natural gas service.

(2) To provide for affordable natural gas service by making available payment assistance to [low-income] low income customers.

(3) To [help low-income] assist low income customers [conserve] in conserving energy and [reduce] reducing residential utility bills.

(4) To ensure universal service and energy conservation programs are operated in a cost-effective and efficient manner to minimize program costs.

**§ 62.4. [Universal] Review of universal service and energy conservation plans, funding and cost recovery.**

(a) *Plan submission.*

(1) [Each] An NGDC shall submit to the Commission for approval an updated universal service and energy conservation plan in the form of a tariff filing every 3 years [beginning February 28, 2002, on a staggered schedule].



(2) The plan [should cover] must provide for universal service and energy conservation for the next 3-calendar years.

(3) An NGDC shall file its universal service and energy conservation plan in the form of a tariff filing. The tariff filing must conform with applicable regulations in Chapters 53 and 76 (relating to tariffs for noncommon carriers; and customer assistance programs). The plan should state how it differs from the previously approved plan.

(4) [The plan should include revisions based on analysis of program experiences and evaluations.] An NGDC shall consult BCS for advice regarding the design and implementation of its plan at least 30 days prior to submission of the plan to the Commission for approval.

(5) In the proceeding on the plan, the Commission will establish a funding level that balances efforts to ensure the availability of universal service and energy conservation programs throughout an NGDC's service territory with the cost of the programs and the rate impact on residential customers that are not enrolled in the programs, and will permit an NGDC to recover costs related to universal service and energy conservation from residential customers. The Commission will approve recovery of CAP costs consistent with § 76.4 (relating to recovery of costs of customer assistance programs). [The Commission will act on the plans within 90 days of the NGDC filing date.

(6) If the Commission rejects the plan, the NGDC shall submit a revised plan pursuant to the order rejecting or directing modification of the plan as previously filed. If the order rejecting the plan does not state a timeline, the NGDC shall file its revised plan within 45 days of the entry of the order.]

(b) [Plan] Tariff contents. The tariff must contain the following information:

(1) [The components of] General requirements. A universal service and energy conservation plan that may include [the following:] a CAP, LIURP, CARES, Hardship Funds [and] or other programs, policies and protections consistent with Commission orders, regulations and other applicable law. For each component of [universal service and energy conservation,] the plan, [shall include] the following information shall be submitted:

[(1)] (i) The program description [that includes a description of the program rules for each program component] including an explanation of the manner and the extent to which the universal service or energy conservation component operates in an integrated manner with other components of the plan to accomplish the goals stated in § 62.3 (relating to universal service and energy conservation program goals).

[(2)] (ii) The eligibility criteria [for each program component].

[(3)] (iii) The projected needs assessment [for each program component and an explanation of how each program component responds to one or more identified needs]. The needs assessment [shall] must include [the]:

(A) The number of identified [low-income] low income customers [and].

(B) An estimate of [low-income] low income customers [, the].

- (C) **The** number of identified payment troubled, **[low-income] low income** customers **[, an]**.
  - (D) **An** estimate of payment troubled, **[low-income] low income** customers **[, the]**.
  - (E) **The** number of customers who still need LIURP services and the cost to serve that number **[, and the]**.
  - (F) **The** enrollment size of CAP to serve all eligible customers.
  - [(4)] (iv) The projected enrollment levels **[for each program component]**.
  - [(5)] (v) The program budget **[for each program component]**.
  - [(6)] (vi) The plans to use community-based organizations **[for each program component]**.
  - [(7)] (vii) The organizational structure of staff responsible for universal service programs.
  - [(8)] (viii) An explanation of **[any]** differences between the NGDC's approved plan and the implementation of that plan. **The plan must include a proposal to address the identified differences. [If] When** an NGDC has not implemented all of the provisions of an approved plan, the NGDC **[should] shall** provide a justification for that failure and plans for corrective action. **[If] When** an NGDC is requesting approval of a revised plan, the NGDC **[should] shall** provide a justification of the revisions in its request for approval.
  - [(9)] (ix) A description of outreach and intake efforts, **[for each program component]**.
  - (10) **An identification of the] specific steps used to identify [low-income] low income** customers with arrears and to enroll them in appropriate universal service and energy conservation programs.
  - [ (11) **An identification of the manner in which universal service and energy conservation programs operate in an integrated fashion.]**
- (2) **Program rules.** The tariff must contain rules that apply to the universal service and energy conservation programs. The rules must be consistent with the code, applicable Commission regulations, orders and other applicable law. The rules must address the following:
- (i) **Program eligibility.**
  - (ii) **Enrollment process.**
  - (iii) **Customer responsibilities for continued program participation.**
  - (iv) **Coordination of energy assistance benefits including the application of LIHEAP grants.**
  - (v) **Arrearage forgiveness.**
  - (vi) **Dismissal from the program, including default rules in § 76.5 (relating to default provisions for failure to comply with program rules).**

- (vii) Reinstatement to the program.
- (viii) Termination of service.
- (ix) Restoration of service.
- (x) Treatment of CAP customers who become income ineligible for continued participation.
- (xi) Other matters required for the implementation and operation of the program.

(3) *Documentation in support of funding and cost recovery for universal service and energy conservation.* The tariff filing must contain documentation of costs for the NGDC's existing universal service and energy conservation program and a projection of costs for the next 3 years. The cost projection must take into account changes proposed to be made to the programs and the impact of their implementation on costs. The tariff filing must contain documentation of cost savings that result from customer participation in these programs, to the extent savings exist.

(4) *Surcharge.* An NGDC may propose a surcharge under 66 Pa.C.S. § 1307 (relating to sliding scale of rates; adjustments) to provide for full recovery of universal service and energy conservation costs. The surcharge may be subject to annual reconciliation or may be adjusted prospectively on a quarterly basis as required by changes in the level of costs incurred. When a surcharge is proposed, the tariff filing must contain:

(i) A description of the surcharge, a list of the specific costs proposed for recovery, and, when applicable, an adjustment mechanism. Consistent with 66 Pa.C.S. § 1408 (relating to surcharges for uncollectible expenses prohibited), the surcharge may not recover uncollectible expenses.

(ii) A statement of the time period after which the surcharge becomes effective for service referenced from the date of the filing of the tariff.

(iii) Calculations based on current and projected costs that support the use of the surcharge and the adjustment mechanism, when applicable.

(iv) A statement that the surcharge is applicable only to residential customers.

**§ 62.5. Annual residential collection and universal service and energy conservation program reporting requirements.**

(a) [Each] An NGDC shall report annually to the Commission on the degree to which universal service and energy conservation programs within its service territory are available and appropriately funded. Annual NGDC reports [shall] must contain information on programs and collections for the prior calendar year. Unless otherwise stated, the report shall be due April 1 each year [, beginning April 1, 2003]. When noted, the data shall be reported by classification of accounts as **total residential customers and confirmed low income residential customers**. [Each] An NGDC's report [shall] must contain the following information:

(1) *Collection reporting.* Collection reporting [shall] must be categorized as follows:

\* \* \* \* \*

(ii) Annual collection operating expenses by classification of accounts. **Collection operating expenses include administrative expenses associated with termination activity, negotiating payment arrangements, budget counseling, investigation and resolving informal and formal complaints associated with payment arrangements, securing and maintaining deposits, tracking delinquent accounts, collection agencies' expenses, litigation expenses other than Commission related, dunning expenses and winter survey expenses.**

\* \* \* \* \*

(xiii) The total number of **[low-income] low income** households. NGDCs may estimate this number using census data or other information the NGDC finds appropriate.

(2) *Program reporting.* Program reporting **[shall] must** be categorized as follows:

(i) For **[each]** a universal service and energy conservation component, program data **[shall] must** include information on the following:

\* \* \* \* \*

(ii) Additional program data for individual universal service and energy conservation components **[shall] must** include the following information:

(A) *LIURP [reporting requirements].* **[As] Reporting requirements as** established in § 58.15 (relating to program evaluation).

(I) **[LIURP reporting data. Due] LIURP reporting data shall be due** annually by April 30.

(II) **[Actual number of completed jobs and spending data.]** Actual number of completed jobs and spending data for the recently completed program year and projections for the current year shall be due annually by April 1.

\* \* \* \* \*

**§ 62.6. Evaluation reporting requirements.**

(a) **[Each] An** NGDC shall select, after conferring with **[the Commission's Bureau of Consumer Services] BCS**, an independent third-party to conduct an impact evaluation of its universal service and energy conservation programs and to provide a report of findings and recommendations to the Commission and NGDC.

(b) **[The first impact evaluation will be due beginning August 1, 2004, on a staggered schedule. Subsequent evaluation reports shall be presented to the NGDC and the Commission at no more than 6-year intervals.]** An NGDC shall submit an impact evaluation report to the Commission every 6 years. When an NGDC is required to submit an impact evaluation in the same year as it is required to file its universal service and energy conservation plan, the NGDC shall file the impact evaluation report 6 months prior to the filing date for the universal service and energy conservation plan.

(c) To ensure an independent evaluation, neither the NGDC nor the Commission shall exercise control over **content** or recommendations contained in the independent evaluation report. The NGDCs may **[provide] submit to** the Commission **[with]** a companion report that expresses where **[they agree or disagree] there is agreement or disagreement** with **the** independent evaluation report content or recommendations.

**§ 62.7. NGDCs with less than 100,000 residential accounts.**

**[(a) Beginning June 1, 2003, each] An** NGDC with less than 100,000 accounts shall report to the Commission every 3 years the following information in lieu of the requirements in §§ 62.4--62.6 (relating to **review of** universal service and energy conservation plans, **funding and cost recovery**; annual residential collection and universal service and energy conservation program reporting requirements; and evaluation reporting requirements):

\* \* \* \* \*

- (2) **[Expenses] The expenses** associated with **[low-income] low income** customers.
- (3) A description of the universal service and energy conservation services provided to **[low-income] low income** residential customers.
- (4) **[Number] The number** of services or benefits provided to **[low-income] low income** residential customers.
- (5) **[Dollar] The dollar** amount of services or benefits provided to **[low-income] low income** residential customers.

**CHAPTER 76. CUSTOMER ASSISTANCE PROGRAMS**

Sec.

- 76.1. Purpose.
- 76.2. Definitions.
- 76.3. Approval process.
- 76.4. Recovery of costs of customer assistance programs.
- 76.5. Default provisions for failure to comply with program rules.
- 76.6. Restoration of service after termination for nonpayment of CAP bills.

**§ 76.1. Purpose.**

Universal service and energy conservation shall be made available to low income customers throughout a distribution company's territory. To ensure their availability, universal service and energy conservation programs shall be developed and funded individually for each distribution company. To ensure cost effectiveness and compliance with statutory requirements that protect all ratepayers, certain rules must be consistent for all programs. These rules relate to costs that shall be recovered by the distribution company, customer actions or inactions that result in dismissal from participation in a CAP, and billing and collection practices that shall be observed for CAP customers.

**§ 76.2. Definitions.**

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

*CAP--Customer Assistance Program--*A plan implemented by a distribution company for the purpose of providing universal service and energy conservation services to low income customers, in which the customers shall:

- (i) Make monthly payments based on household income and household size.
- (ii) Comply with specific responsibilities to remain eligible for the program.

*Distribution company--*A natural gas distribution company or an electric distribution company.

*LIHEAP--Low Income Home Energy Assistance Program--*A Federally-funded program that provides financial assistance in the form of cash and crisis grants to low income households for home energy bills and is administered by the Department of Public Welfare.

**§ 76.3. Approval process.**

(a) A distribution company shall obtain Commission approval prior to implementing a CAP plan, or a revision or expansion of an existing CAP. A distribution company shall utilize the procedures in § 54.74(a)(3) or § 62.4(a)(3) (relating to review of universal service and energy conservation plans, funding and cost recovery).

(b) When an immediate temporary modification must be made to an existing CAP to maintain its operation, a distribution company shall submit an application for special permission to file a tariff revision or supplement on less than statutory notice consistent with §§ 53.102 and 53.103 (relating to exception to requirement for statutory notice; and concurrently furnished information). A copy of the application, including the supporting information, shall be served on the Office of Consumer Advocate, the Office of Trial Staff, and other advocates for low income customers, and provided to BCS. A distribution company shall obtain Commission approval prior to implementing a temporary modification to an existing CAP.

**§ 76.4. Recovery of costs of customer assistance programs.**

The following considerations apply to the recovery of CAP costs by a distribution company:

- (1) CAP costs shall be recoverable only from residential customers.
- (2) The following CAP costs are eligible for recovery, if prudently incurred and reasonable in amount:
  - (i) CAP credits.
  - (ii) Administrative costs, including costs related to collection activities.
  - (iii) Preprogram arrearage forgiveness to the extent that a distribution company can prove that recovery of these costs will not result in double recovery.

(iv) Taxes that a distribution company is able to prove are attributable to its CAP.

(v) Other costs that a distribution company is able to prove are attributable to its CAP.

(3) The company shall include, as an offset to cost recovery, cost savings it incurred in the following areas:

(i) Cash working capital.

(ii) Bad debt expense.

(iii) Credit costs.

(iv) Collection costs.

(4) The Commission will consider the timeliness of a distribution company's collection activities in evaluating the reasonableness of costs claimed for recovery.

(5) A distribution company may propose a surcharge under 66 Pa.C.S. § 1307 (relating to sliding scale of rates; adjustments) to provide for full recovery of CAP costs as part of the surcharge permitted by §§ 54.74(b)(4) and 62.4(b)(4) (relating to review of universal service and energy conservation).

**§ 76.5. Default provisions for failure to comply with program rules.**

(a) The failure of a CAP customer to comply with the following shall result in dismissal from CAP participation:

(1) Failure to apply for LIHEAP.

(2) Failure to verify or certify eligibility.

(3) Failure to report changes in income and household size.

(4) Failure to accept free budget counseling offered by the distribution company.

(5) Failure to accept usage reduction services.

(b) The failure of a CAP customer to make payments shall result in dismissal from CAP participation and may lead to termination of service.

**§ 76.6. Restoration of service after termination for nonpayment of CAP bills.**

When a CAP customer's service has been terminated for nonpayment, restoration of service shall be governed by 66 Pa.C.S. § 1407 (relating to reconnection of service) and applicable Commission regulations and orders.

### 13. Universal Service And Energy Conservation Programs

#### 13.1 CUSTOMER RESPONSIBILITY PROGRAM.

13.1.A. Eligibility and Enrollment. A Customer is eligible for the Customer Responsibility Program if it is determined at the time of application (or recertification) that the Customer's annual household gross income is at or below 150% of the federal poverty level. The Customer shall provide all documentation necessary for PGW to determine the household income including but not limited to proof of household income, verification of family size, and character of service requested (Heating or Non-Heating). PGW has the right to verify a Customer's income by means including but not limited to verification through governmental agency and checking credit reports. Enrollment shall be ongoing and open year-round. Customers selecting Transportation Service will no longer qualify for the CRP Program and will be responsible for the tariffed rates under General Service - Rate GS.

13.1.B. Requirements. A Participant must abide by the following provisions. The failure of a Participant to comply with one of the following could result in dismissal from the CRP Program:

13.1.B.1. A Participant shall make regular monthly Customer Responsibility Payments. Failure to do so may lead to termination of service.

13.1.B.2. A Participant shall recertify annually, based upon the Participant's anniversary date of enrollment.

13.1.B.3. It is the Participant's responsibility to notify PGW when there is a change in the household's income or size. Adjustments to a Participant's bill will be made anytime there is a change in income or family size.

13.1.B.4. When eligible, a Participant must apply for and assign at least one energy assistance grant, such as a LIHEAP grant, to PGW annually.

13.1.B.5. Participants must take the necessary actions to participate in the Conservation Works Program (CWP) or other conservation programs and to abide by established consumption limits.

13.1.B.6. A Participant must allow access to their property for meter readings or for the installation of an AMR. Failure to allow access for four consecutive months will result in dismissal from CRP.

13.1.B.7. A Participant shall be responsible for seeking assistance and guidance from PGW, including budget counseling, in the event that the Participant is unable to meet the above responsibilities.

13.1.C. Applicable Rates. A Participant's CRP Payments will be based upon the Participant's family size and gross household income. A Participant will pay a percentage of his/her gross household income depending on where that Participant falls within the Federal Poverty Guidelines (FPL). Rates are calculated under rate schedule GS, including riders.

13.1.C.1. For payment purposes CRP Participants will be defined as follows:

13.1.C.1.a. Group A: Participants whose gross household income has been verified as being from 0 – and up to and including 50% of FPL.

13.1.C.1.b. Group B: Participants whose gross household income has been verified as being greater than 50% and up to and including – 100% of FPL.



13.1.C.1.c. Group C: Participants whose gross household income has been verified as being greater than 100% – and up to and including 150% of FPL.

13.1.C.2. A CRP Participant will be responsible for paying the following rates for service or \$18 per month, whichever is greater.

13.1.C.2.a. Group A: 8% of gross income.

13.1.C.2.b. Group B: 9% of gross income.

13.1.C.2.c. Group C: 10% of gross income

13.1.D. Arrearages. Participants making regular monthly Customer Responsibility Payments will earn forgiveness on their pre-program Arrearages. The amount of and criteria applicable to Arrearage forgiveness shall be consistent with applicable Commission Orders. Participants choosing an NGS are responsible for all outstanding balances owed to PGW.

13.2. CONSERVATION WORKS PROGRAM (CWP). PGW shall establish fair, effective and efficient Gas usage reduction programs for low-Income Customers. Such programs are intended to maintain affordable Gas Service and to reduce uncollectible accounts and the collection and termination expenses of PGW by enabling low income Customers to conserve energy and reduce their Gas usage.

13.2.A. Eligibility. This program is available to Residential Heating CRP Participants with high usage. PGW shall have access to the Residential Building to determine the most appropriate usage reduction measures. An eligible Customer who is a Tenant shall have an equal opportunity to secure program services if the Landlord has granted written permission to the Tenant for the installation of program measures, and the Landlord agrees, in writing, that rents will not be raised unless the increase is related to matters other than the installation of the usage reduction measures, and the Tenant is not evicted for a stated period of time at least 12 months after the installation of the program measures, if the Tenant complies with ongoing obligations and responsibilities owed the Landlord. A covered utility may seek Landlord contributions as long as the contributions do not prevent an eligible Customer from receiving program services. Contributions from Landlords shall be used by the utility as supplemental to its approved Conservation Works Program budget.

13.2.B. Conservation Works Program Funding. Funding for Conservation Works programs shall be at least .2% of jurisdictional revenues during each year of operation. In the event that PGW employs independent contractor(s) to manage such program(s), said contractor(s) may spend not more than 15% of program funding for administrative costs and PGW shall not charge any of its expenses for such program(s) to program administration. In all other circumstances, PGW shall spend not more than 15% of its Conservation Works Program funding for administrative costs.

13.2.C. Integration. PGW shall coordinate its Conservation Works reduction programs with existing resources in the community, and operate in conjunction with the relevant public or private programs so that Customers experiencing ability-to-pay problems are made aware of the usage reduction program and are referred to public, private, or utility programs that may enhance their ability to pay their utility bills.

13.2.D. Dwelling Repairs. Expenditures on program measures may include energy-related repairs to the dwelling necessary to permit measures that are needed to reduce usage effectively. The cost-effectiveness of such expenditures shall be measured in the same manner as all other expenditures under this program.

13.3. CARES. PGW's CARES is a program designed to assist Customers experiencing temporary hardships affecting their ability to pay his/her Gas bills. Through this program, PGW will assist Customers with referrals to appropriate social service agencies, engage in community outreach as well as consumer education.