



July 19, 2021

**VIA E-File**

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
400 North Street, Filing Room  
Harrisburg, PA 17120

**RE: Proposed Rulemaking for Diversity Reporting of Major Jurisdictional Utilities,  
Docket No. L-2020-3017284**

Dear Secretary Chiavetta,

Please find the **Comments of the Coalition for Affordable Utility Service and Energy Efficiency in Pennsylvania (CAUSE-PA)**, which are respectfully submitted for consideration in the above referenced docket, pursuant to the Notice of Proposed Rulemaking published in the *Pennsylvania Bulletin* on June 5, 2021. An electronic copy will be provided to Commission Staff, as indicated below.

Respectfully submitted,

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**BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Proposed Rulemaking for Diversity Reporting of       :   Docket No. L-2020-3017284**  
**Major Jurisdictional Utilities                                :**

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**COMMENTS OF**

**THE COALITION FOR AFFORDABLE UTILITY SERVICES AND ENERGY**  
**EFFICIENCY IN PENNSYLVANIA**

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**July 19, 2021**

## **I. INTRODUCTION AND BACKGROUND**

The Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA)<sup>1</sup> submits the following comments in response to the Pennsylvania Public Utility Commission's (Commission or PUC) Notice of Proposed Rulemaking, published in the *Pennsylvania Bulletin* on June 5, 2021, to establish in regulation, provisions included in the Commission's Policy Statement on Diversity at Major Jurisdictional Utility Companies, 52 Pa. Code §§ 69.801-69.809, (Policy Statement).<sup>2</sup>

Pursuant to 52 Pa. Code §§ 69.801-69.809, major jurisdictional utilities in Pennsylvania are encouraged to file annual diversity reports with the Commission related to efforts to employ, and contract with, members of diverse groups and communities. On December 3, 2020, the Commission entered a Final Policy Statement (hereafter, Final Policy Statement) at Docket No. M-2020-3018089 which updated its Diversity Reporting Policy Statement.

The Final Policy Statement was issued to better align demographic terms with the Commonwealth's diverse residents and to provide consistency with terms used in diversity reporting to federal agencies. The present rulemaking, borne from the Final Policy Statement, proposes diversity reporting to become a regulatory obligation, to be codified in 52 Pa. Code Chapter 51, for major jurisdictional utilities providing electric, natural gas, water, wastewater, and telecommunications services.

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<sup>1</sup> CAUSE-PA is a statewide unincorporated association of low-income individuals which advocates on behalf of its members to enable consumers of limited economic means to connect to and maintain affordable water, electric, heating and telecommunication services. CAUSE-PA membership is open to moderate- and low-income individuals residing in the Commonwealth of Pennsylvania who are committed to the goal of helping low-income families maintain affordable access to utility services and achieve economic independence and family well-being.

<sup>2</sup> Final Policy Statement updating Diversity Reporting was entered by the Commission on December 3, 2020 at Docket No. M-2020-3018089.

CAUSE-PA commends the Commission's efforts to codify the requirement for major jurisdictional utilities to file annual diversity reports with the Commission describing the utilities' efforts to expand diverse hiring and contracting. CAUSE-PA has long advocated for protection and inclusion of Pennsylvania's underrepresented residents. The need to address and improve equity and inclusion of diverse communities in the workforce and contracting has come into sharp focus throughout the pendency of the COVID-19 pandemic.<sup>3</sup> People of color, people who are low income, and people from other socially disadvantaged groups have suffered disproportionate health and economic impacts as a result of the pandemic, including substantially higher unemployment, and continue to face disproportionate barriers to recovery even as the economy begins to recover.<sup>4</sup> These disparities are rooted in systemic inequities and historical disinvestment, and require intentional policy changes to correct.

Given the breadth of disparity faced by diverse communities, it is essential that utilities provide the Commission and interested stakeholders with robust and accurate data to ensure diverse staff representation within the utility workforce, and to identify opportunities for growth and improvement, including ensuring leadership has diverse representation. CAUSE-PA appreciates the Commission's goal to gather meaningful, accurate, and reliable information from utilities and to achieve consistency with other reporting requirements to federal agencies.<sup>5</sup>

Through these Comments, CAUSE-PA proposes several minor amendments and additions to the Commission's proposed regulatory language and demographics form to strengthen the proposal and enhance utility diversity reporting.

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<sup>3</sup> See Dan Treglia, PhD, Mina Addo, MPA, Meagan Cusack, MSW, and Dennis Culhane, PhD, Understanding Racial And Ethnic Disparities in Health Outcomes and Utility Insecurity Resulting From COVID-19, University of Pennsylvania, available at: [https://clsphila.org/wp-content/uploads/2021/03/CLS\\_UtilityReport\\_20200324.pdf](https://clsphila.org/wp-content/uploads/2021/03/CLS_UtilityReport_20200324.pdf).

<sup>4</sup> Id.

<sup>5</sup> Notice of Proposed Rulemaking at 3.

We note as an overarching matter that, while this proposed rulemaking is focused on requiring quantitative reporting on *diversity*, alone, attention must be paid equally to diversity, equity, and inclusion (DEI). We note that the Commission’s proposed definition of “diversity” includes the concepts of DEI, noting that diversity is “the attainment of organizational objectives by maximizing the contributions of individuals from every segment of the population”, though these additional concepts – equity and inclusion – are not specifically named. Increased diversity alone helps ensure representation, but equity and inclusion are the additional components that are necessary to ensure *participation* of diverse groups of people in a welcoming environment. These three components, taken together, allow companies to cultivate innovation, ultimately leading to a dynamic and growth-minded workforce and business, thus allowing utilities to “foster a diverse workforce and contracting pool,” as intended by the Commission in publishing this proposed rulemaking (Regulatory Analysis Form; Question 10).<sup>6</sup> CAUSE-PA’s comments, therefore, will speak to the diversity reporting component alongside equity and inclusion, recommending throughout that principles of equity and inclusion be taken together with diversity.

CAUSE-PA appreciates the opportunity to comment on this important proposed rulemaking. We commend the Commission for its efforts to ensure that utilities reflect and represent the diversity found throughout Pennsylvania and encourage the Commission to finalize this rulemaking without delay, consistent with the proposals set forth in these Comments.

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<sup>6</sup> Pa. IRRRC, Regulatory Analysis Form, <http://www.irrc.state.pa.us/docs/3304/AGENCY/3304PRO.pdf>; see also Laura Sherbin & Ripa Rahid, Diversity Doesn’t Stick Without Inclusion, Harvard Business Review, <https://hbr.org/2017/02/diversity-doesnt-stick-without-inclusion>.

## **II. COMMENTS TO PROPOSED DIVERSITY REPORTING REGULATIONS**

CAUSE-PA offers the following comments on the proposed rulemaking as well as an Appendix attached to these Comment which provide suggested amendments to the demographics form as well as modifications to the proposed regulatory language.

### **§ 51.11 -- General**

CAUSE-PA supports the language included in this Section and commends the Commission for recognizing the importance of diversity in utilities' corporate and economic strategies. CAUSE-PA further supports inclusion of reference to the Commission's formal policy statement (codified at 52 Pa. Code §§ 69.801-809) in the proposed regulatory language, as it contains additional guidance and recommendations for utilities to improve workforce diversity, the diversity amongst vendor supply chains, and further support training provided at utilities that will be crucial for sustained growth in this area.

As noted above, reporting on diversity demographics is an important first step in adequately growing and sustaining a diverse workforce – but efforts to diversify the workforce must be accompanied by efforts to improve equity and inclusion of underrepresented groups. Diversity efforts will be unsuccessful if those efforts are not accompanied by efforts to ensure that diverse populations are treated equitably by their employers and included in the workplace culture and decision making. CAUSE-PA thus recommends adding the words “*equity and inclusion*” to the regulatory language, and as part of the reporting requirements. See Appendix A for suggested regulatory language changes.

CAUSE-PA also encourages the utilities to work with local community partners and organizations which have expertise in consulting and training on DEI issues and implementing DEI-focused policies and practices. In particular, for utilities who implement or improve their DEI

programs pursuant to Section 69.803 of the Commission’s Policy Statement, we encourage coordination with local community partners and organizations with DEI expertise to provide training and consulting services. Working with local leaders and organizations rooted in the community will help utilities to holistically connect and build trust with the people they serve – strengthening commitment to DEI objectives and improving the outcomes achieved.

Finally with respect to section 51.11, and as an overarching matter, CAUSE-PA recommends that the Commission also collaborate with local and statewide organizations and community partners with DEI expertise to assist in the finalization of this rulemaking, and to consult on future initiatives to strengthen DEI-related language. As the Commission works to implement this rulemaking, we encourage the Commission to establish a dedicated office of diversity, equity, and inclusion to review utility reports, study relevant data, and further advance DEI initiatives – both in implementation and oversight of the standards and guidelines in this rulemaking and in studying and initiating further DEI advancements. This is a recognized concept, as many agencies, institutions, and businesses across the country are establishing similar offices, which can build the expertise necessary to root out systemic inequities and foster principles of diversity, equity, and inclusion both within the Commission and across the regulated community.<sup>7</sup>

#### **§ 51.12 – Definitions Applicable to Employee and Vendor Diversity**

CAUSE-PA recommends that the Commission clarify the language in the definition of “LGBTQ” and “Person with disabilities,” further providing for the voluntary and confidential nature of self-reporting. We recommend the following revision to Section 51.12, definition of

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<sup>7</sup> See generally, David Rock, How Can Gov’t Agencies be More Diverse and Equitable? Fed. News Network (June 9, 2021), <https://federalnewsnetwork.com/commentary/2021/06/how-can-government-agencies-be-more-diverse-and-equitable/>; Mita Mallick, Do You Know Why Your Company Needs a Chief Diversity Officer?, Harvard Business Review (Sept. 11, 2020), <https://hbr.org/2020/09/do-you-know-why-your-company-needs-a-chief-diversity-officer>.

LGBTQ: “[e]mployer reporting of LGBTQ shall be based on employee self-identification *and shall be confidential and voluntary on the part of the employee.*” We recommend the same language be added to Section 51.12, definition of Person with disabilities. See Appendix A for suggested changes to the regulatory language.

In its Final Policy Statement, the Commission explicitly acknowledged the importance of privacy surrounding the reporting of LGBTQ employees when developing a process of tracking LGBTQ inclusion amongst utilities.<sup>8</sup> Not every person who identifies as LGBTQ may be open in the workplace, and policies which are not explicitly voluntary and confidential may be alienating – undermining efforts to promote an inclusive workplace. It is important for utilities to build an inclusive and welcoming workplace, where employees feel safe to be who they are. We thus encourage the Commission to make this slight revision to the proposed rule to help ensure utilities’ process of identifying LGBTQ composition is voluntary and confidential.<sup>9</sup> This is especially important given the continued pervasive workplace discrimination felt by many members of the LGBTQ community.<sup>10</sup>

There are similarly important reasons to protect the confidential and voluntary nature of self-reporting of people with a disability. Disabilities are often not visible, and disclosure of a disability to an employer can expose the person to disparate treatment by the employer or their colleagues – whether intentional or unintentional. It must be abundantly clear to the employee that

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<sup>8</sup> Final Policy Statement at 10.

<sup>9</sup> Self-Identification of LGBTQ Employees, Human Rights Campaign, available at: <https://www.thehrcfoundation.org/professional-resources/self-identification-of-lgbtq-employees>; see also M.V. Lee Badgett, Collecting LGBT+ Data for Diversity: Initiating Self-ID at IBM, University of Massachusetts Amherst, available at: <https://www.umass.edu/employmentequity/collecting-lgbt-data-diversity-initiating-self-id-ibm>.

<sup>10</sup> Meera Jagannathan, Almost half of LGB professionals experience discrimination at work — and it’s even worse for people of color, MarketWatch (June 12, 2021), available at: <https://www.marketwatch.com/story/almost-half-of-lgb-professionals-experience-discrimination-at-work-and-its-even-worse-for-people-of-color-11623350297>.

disclosure of their status as a person with a disability is completely voluntary and will remain confidential.

### **§ 51.13 – Definitions for Reporting Employee Statistics**

In its Final Policy Statement, the Commission notes the importance of consistency in the definition of demographic groups in order to ensure that utilities are uniformly reporting their workforce diversity.<sup>11</sup> As such, the Commission incorporated the terms and definitions for demographic groups set forth in the U.S. Equal Employment Opportunity Commission’s (EEOC) Employer Information Report EEO–1, 29 C.F.R. § 1602.7, (EEO-1 Report).<sup>12</sup> CAUSE-PA likewise understands the importance of consistency in reporting, as it promotes accuracy in data collection which helps determine utilities’ ability to foster diversity, equity, and inclusion. We note, however, that consideration of race and ethnicity continues to evolve, as does reporting, to more comprehensively address and support inclusivity.

While CAUSE-PA is generally supportive of the definitions included in the Final Policy Statement and in this proposed rulemaking, and the consistency it will bring, we suggest amendment to proposed Section 51.13 to help ensure the definitions are appropriately inclusive. In section 51.13, all racial groups have “Not Hispanic or Latino” in parentheses after the named group, with the exception of “Black or African-American.” CAUSE-PA believes this may be an inadvertent omission, and that the Commission likely meant to include “Not Hispanic or Latino” after each identified race. If the omission was intentional, we urge the Commission to reconsider its decision to limit individuals who identify as Hispanic or Latino to also identifying as Black or

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<sup>11</sup> Final Policy Statement at 6.

<sup>12</sup> Id.

African American – to the exclusion of any other race. Individuals who identify as Hispanic or Latino may also identify with any of the identified races.

Rather than add “Hispanic or Latino” to the definition of “Black or African American” to correct the omission, CAUSE-PA recommends the Commission remove “Not Hispanic or Latino” from each identified race in section 51.13. People who identify as Hispanic or Latino, an ethnicity, should not be prevented from also indicating the race they identify as, if they so choose.<sup>13</sup> While many people who identify as Hispanic or Latino do not also identify with a separate racial category, many others do.<sup>14</sup> Research suggests that separating ethnicity from race in data reporting can cause inaccuracies in reporting.<sup>15</sup> CAUSE-PA recommends providing greater inclusivity in reporting by ensuring that individuals who identify as Hispanic or Latino have the option to identify their race in addition to their ethnicity, if they wish to do so. Many who identify as Hispanic or Latino may still identify only in that category, but others are likely to appreciate the ability to identify their ethnicity and race in a way that feels authentic and representative. See Appendix for suggested amendments to the regulatory language and to the Demographics Form.

CAUSE-PA recognizes adopting these amendments may be somewhat challenging as federal and state reporting would differ slightly. However, these challenges are not insurmountable now would they be cost prohibitive.

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<sup>13</sup> Ana Gonzalez-Barrera & Mark Hugo Lopez, Is Being Hispanic a Matter of Race, Ethnicity, or Both? Pew Research Center, <https://www.pewresearch.org/fact-tank/2015/06/15/is-being-hispanic-a-matter-of-race-ethnicity-or-both/>; see also Jorge Gonzalez-Hermoso, Robert Santos, Separating Race from Ethnicity in Surveys Risks an Inaccurate Picture of the Latinx Community (Oct. 15, 2019), <https://www.urban.org/urban-wire/separating-race-ethnicity-surveys-risks-inaccurate-picture-latinx-community>.

<sup>14</sup> See *id.*

<sup>15</sup> Jorge Gonzalez-Hermoso, Robert Santos, Separating Race from Ethnicity in Surveys Risks an Inaccurate Picture of the Latinx Community (Oct. 15, 2019), <https://www.urban.org/urban-wire/separating-race-ethnicity-surveys-risks-inaccurate-picture-latinx-community>.

## § 51.15 Diversity Reporting Requirements

CAUSE-PA is generally supportive of the elements proposed by the Commission to be included in utilities' annual reports. Nevertheless, CAUSE-PA proposes three modest amendments to the proposed language under Section 51.15 to provide the Commission and any interested stakeholders with additional metrics to ensure that utilities are adequately fostering DEI programming.

First, CAUSE-PA recommends that, pursuant to Section 51.15(a)(2), the annual report should include “[a] description of training implemented on DEI initiatives in employment and in the contract of goods and services, including the number of trainings, number of attendees, departments trained, and topics covered.” Adding this language to Section 51.15(a)(2) will allow the Commission and stakeholders to evaluate the nature and frequency of the trainings conducted. This will also let stakeholders see who is in attendance to ensure that all departments and levels of administration are receiving training and that training is ongoing. Utility workforce at all levels – from frontline customer service staff to upper level management who make and execute policy – need to receive robust, ongoing training. DEI matters are challenging, dynamic, and evolving, and training on DEI should be equally challenging, dynamic and evolving to achieve goals of improving diversity, equity, and inclusion across the utility workforce.

Second, CAUSE-PA recommends amendment to the proposed language of Section 51.15(a)(4) to include in the annual report “[a] description of DEI recruiting strategies, and how those strategies are designed to reach underrepresented communities.” The additional language to Section 51.15(a)(4) will help the Commission and stakeholders determine if utilities have promoted recruitment in communities that have been historically classified as underrepresented or

at-need in order to ensure broad social, racial, gender, and economic diversity within the utility workforce.

Finally, CAUSE-PA recommends amendment to the proposed language of Section 51.15(a)(6) to require annual reporting related to “[a] description of diversity retention efforts, *including identified disparities in workforce retention.*” Requiring utilities to report not only on their diversity retention efforts, but also to specifically identify disparities in the utilities’ ability to maintain diversity in the workforce since the last annual report, will allow the Commission to better examine trends amongst utilities to recruit and retain a diverse workforce.

### **III. FORM TO REPORT WORKFORCE DEMOGRAPHICS**

In addition to the proposed rulemaking, CAUSE-PA appreciates the opportunity to comment on the “Demographics of Utility Workforce” Form the Commission intends to make available to major jurisdictional utilities. We understand the form will not be codified as part of the final-form rulemaking, but we offer the following comments to improve upon the form to best comport with the intent of this rulemaking.

Specifically, CAUSE-PA proposes slight amendment to the “Gender” category of the Form. As currently proposed, the Form only offers two, binary options for genders – male and female. This excludes a substantial segment of the population and does not recognize the diverse nature of gender categories.<sup>16</sup> The rulemaking proposes to include the language “and gender non-conforming” to the definition of LGBTQ, which we applaud. However, LGBTQ reporting is understandably optional, and is a separate reporting metric from the “Gender” category. The Form should be amended to match the inclusivity of the Commission’s proposed definitions of LGBTQ

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<sup>16</sup> [Carline Anders](https://www.washingtonpost.com/dc-md-va/2021/06/22/first-population-estimate-lgbtq-non-binary-adults-us-is-out-heres-why-that-matters/), More than 1 Million Nonbinary Adults Live in the US, a Pioneering Study Finds, Wash. Post (June 22, 2021), <https://www.washingtonpost.com/dc-md-va/2021/06/22/first-population-estimate-lgbtq-non-binary-adults-us-is-out-heres-why-that-matters/>.

and allow for nonbinary gender identification. CAUSE-PA recommends that the Commission amend the Form to add two categories under Gender; “Nonbinary” and “Prefer to Self-Describe.”<sup>17</sup>

Other Commonwealth agencies have moved towards more inclusive reporting of gender identity. Recognizing the importance of making this an available option, the Pennsylvania Department of Transportation (PennDOT) one year ago, in July of 2020, added a nonbinary option for driver licenses and photo identification cards issued through PennDOT.<sup>18</sup> Those who do not identify as male or female can choose to have an X in place of M or F. Even with the three options, there are people who prefer to self-describe and so that option should be made available as well.

Acknowledging different forms of gender expression is an important step in creating an inclusive workplace and will help to more accurately capture data related to utility workforce demographics. As such, CAUSE-PA recommends consulting with those with the appropriate expertise and then amending the “Demographics of Utility Workforce Form” to be adequately representative.

#### **IV. ADDITIONAL RECOMMENDATIONS**

CAUSE-PA again applauds the Commission for its commitment to promoting diversity, equity, and inclusion in the utility workforce and contracting. This is a tremendous step forward in recognizing the benefits of a vibrant and inclusive workforce. We encourage the Commission to take further strides to ensure that the core principles of diversity, equity, and inclusion are reflected in the services provided to Pennsylvania consumers – regardless of their race, gender, ethnicity, social class, abilities, or sexual orientation. As the Commission is well aware, research

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<sup>17</sup> Nonbinary is a term used to describe those who do not feel exclusively male or female. [See Human Rights Campaign, Resources: Glossary of Terms, https://www.hrc.org/resources/glossary-of-terms](https://www.hrc.org/resources/glossary-of-terms); see also [Nat’l Ctr for Transgender Equality, Understanding Non-Binary People: How to be Respectful and Supportive, https://transequality.org/issues/resources/understanding-non-binary-people-how-to-be-respectful-and-supportive](https://transequality.org/issues/resources/understanding-non-binary-people-how-to-be-respectful-and-supportive).

<sup>18</sup> Pa. Dep’t of Transportation; [PennDOT Offers Non-binary Gender Designation Option on Driver Licenses, ID Cards \(July 23, 2020\), https://www.penndot.gov/pages/all-news-details.aspx?newsid=751](https://www.penndot.gov/pages/all-news-details.aspx?newsid=751)

is mounting which shows disparities in utility rates amongst economically vulnerable populations and communities of color.<sup>19</sup> To identify the root issues creating these disparities, and design effective policy solutions that are responsive to those root issues, it is imperative that utilities begin collecting and reporting enhanced demographic data. This should include race, ethnicity, income and gender – as well as improved tracking of household income. With the rise in the availability of geo-mapping, utilities are now able to better understand and anticipate the needs of the communities it serves – and to identify systemic issues, such as neighborhoods with concentrated utility bill arrears and utility terminations, and how assistance programs can better reach those communities.

We encourage the Commission to continue its momentum to ensure that utility policies promote the goals of diversity, equity, and inclusion not only in the utility workforce and contract pool, but also in the delivery of services to the broader community.

## V. CONCLUSION

CAUSE-PA appreciates the opportunity to submit written Comments for this important proposed rulemaking. We commend the Commission for affirmatively moving forward with its proposed rulemaking in order to make diversity reporting more inclusive and purposeful. Codifying diversity reporting requirements is an important first step in enhancing diversity, equity, and inclusion measures throughout the Commonwealth.

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<sup>19</sup> Dan Treglia, PhD, Mina Addo, MPA, Meagan Cusack, MSW, and Dennis Culhane, PhD, Understanding Racial And Ethnic Disparities in Health Outcomes and Utility Insecurity Resulting From COVID-19, Univ. of Pennsylvania, available at: [https://clsphila.org/wp-content/uploads/2021/03/CLS\\_UtilityReport\\_20200324.pdf](https://clsphila.org/wp-content/uploads/2021/03/CLS_UtilityReport_20200324.pdf); see also Coty Montag, NAACP Legal Defense and Educational Fund, Water/Color A Study of Race and the Water Affordability Crisis in America's Cities (2019), available at [https://www.naacpldf.org/wp-content/uploads/Water\\_Report\\_FULL\\_5\\_31\\_19\\_FINAL\\_OPT.pdf](https://www.naacpldf.org/wp-content/uploads/Water_Report_FULL_5_31_19_FINAL_OPT.pdf); The Race Gap in Residential Energy Expenditures; Energy Institute at HAAS; available at [https://evalyubich.com/files/race\\_energyGap.pdf](https://evalyubich.com/files/race_energyGap.pdf); How High are Household Energy Burdens? An Assessment of National and Metropolitan Energy Burdens Across the U.S.; American Council for an Energy-Efficient Economy (ACEEE); available at <https://www.aceee.org/research-report/u2006>.

**Respectfully submitted,**

*On Behalf of CAUSE-PA*



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## **Appendix A: Comments of CAUSE-PA**





*\*Proposed additions are in ALL CAPS, proposed deletions are in ~~strikethrough~~.*

ANNEX A  
TITLE 52. PUBLIC UTILITIES  
PART I. PUBLIC UTILITY COMMISSION  
Subpart C. FIXED SERVICE UTILITIES  
CHAPTER 51. GENERAL PROVISIONS

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**DIVERSITY**

**§ 51.11. General.**

Diversity, EQUITY, AND INCLUSION is an economic reality that each major jurisdictional utility is expected to recognize in its corporate strategy now and in the future. The Commission’s Diversity Policy Statement at 52 Pa. Code §§ 69.801-809 provides recommendations for addressing such diversity, EQUITY, AND INCLUSION issues. While the means by which a major jurisdictional utility addresses diversity, EQUITY, AND INCLUSION in its workforce and vendor supply chains should be utility-specific, the results of such efforts shall be reported annually by each major jurisdictional utility.

**§ 51.12. Definitions Applicable to Employee and Vendor Diversity**

The following words and terms, when used in §§ 51.11 and 51.15 and in the Commission’s Diversity Policy Statement at 52 Pa. Code §§ 69.801-69.809, in the context of major jurisdictional utility employees and vendors have the following meanings:

*Diversity, EQUITY, AND INCLUSION*—The attainment of organizational objectives by maximizing the contributions of individuals from every segment of the population including minorities, women, persons with disabilities, **PERSONS WHO IDENTIFY AS LGBTQ**, and veterans.

*LGBTQ*—Lesbian, gay, bisexual, transgender, queer and questioning. This term also includes gender non-conforming individuals. Employer reporting on LGBTQ shall be based on employee self-identification **AND SHALL BE CONFIDENTIAL AND VOLUNTARY ON THE PART OF THE EMPLOYEE.**

*Major jurisdictional utility*—An electric, natural gas, water or wastewater utility whose net plant in service is valued at \$10 million or more. The term includes major telecommunications utilities with 50,000 or more access lines.

Person with disabilities—A person who has a disability as defined in the Americans With Disabilities Act (ADA), 42 U.S.C.A. § 12102. Employer reporting on person with disabilities shall be based on employee self-identification **AND SHALL BE CONFIDENTIAL AND VOLUNTARY ON THE PART OF THE EMPLOYEE.**

Veteran—A person who meets any veteran category defined in 42 C.F.R. § 61-300.2.

### **§ 51.13. Definitions for Reporting Employee Statistics.**

The following words and terms, when used in §§ 51.11 and 51.15 and in the Commission’s Diversity Policy Statement at 52 Pa. Code §§ 69.801-69.809, in the context of major jurisdictional utility employees have the following meanings:

Black or African-American—A person having origins in any of the black racial groups of Africa

Asian (Not Hispanic or Latino)—A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent, including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand and Vietnam.

Hispanic or Latino—A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin regardless of race.

Long-term plan—A plan applicable to a period of 5 years.

MIL—Minimum Improvement Level—A level or goal which, when achieved, indicates progress in a preferred direction.

Midterm plan—A plan applicable to a period of 3 years.

Native American or Alaska Native (Not Hispanic or Latino)—A person having origins in any of the original peoples of North and South America (Including Central America) and who maintain tribal affiliation or community attachment

Native Hawaiian or Pacific Islander (Not Hispanic or Latino)—A person having origins in any of the peoples of Hawaii, Guam, Samoa or other Pacific Islands.

Short-term plan—A plan applicable to a period of 1 year.

Two or more races (Not Hispanic or Latino)—A person who identifies with more than one of the five races identified in this section.

White (Not Hispanic or Latino)—A person having origins in any of the original peoples of Europe, the Middle East, or North Africa.

#### **§ 51.14. Definitions For Reporting Vendor Statistics**

The following words and terms, when used in §§ 51.11 and 51.15 and in the Commission’s Diversity Policy Statement at 52 Pa. Code §§ 69.801-69.809, in the context of a vendor with whom a major jurisdictional utility does business have the following meanings, unless the context clearly indicates otherwise:

Control—the exercise of the power to make policy decisions.

Exempt Procurement—A product or service which may be removed from the dollar base used to establish minimum improvement levels, because of the demonstrated unavailability of a minority/women/people with disabilities/LGBTQ/veteran-owned business currently capable of supplying a product or service. The term may also include one or more of the following situations:

- (i) The vendor is the original equipment manufacturer.
- (ii) The vendor is the only known source of the product or service.
- (iii) A plant emergency situation dictates use of a specific vendor.
- (iv) The purchase is from an affiliate, corporate parent, or a subsidiary.

MBE—Minority-Owned Business Enterprise—A business enterprise that is at least 51% owned by a minority individual or group or individuals; or a publicly-owned business that has at least 51% of its stock owned by one or more, and whose management and daily business operations are controlled by these individuals.

Minority—Black American, Hispanic American, Native American, Asian-Pacific American, or any other socially disadvantaged individual as defined in 13 C.F.R. § 124.103.

Operate—Active involvement in the day-to-day management. The term involves more than serving as an officer or director.

Subcontract—An agreement or arrangement between a contractor and a party or person—in which the entities do not stand in the relationship of an employer and an employee—for the furnishing of supplies or services for the use of real or personal

property, including lease arrangements, which in whole or in part, is necessary to the performance of any one or more contracts.

*Substantial objective*—An objective that is achievable and which demonstrates a major jurisdictional utility’s commitment to increase the share of the utility’s purchases from and contracts from minority/women/persons with disabilities/LGBTQ/veteran-owned businesses.

*WBE—Women-Owned Business Enterprise*—A business enterprise that is at least 51% owned by a woman or women; or a publicly owned business that has at least 51% of its stock owned by one or more women, and whose management and daily business operations are controlled by one or more women.

**§ 51.15. Diversity Reporting Requirement.**

(a) Each major jurisdictional utility shall file with the Secretary of the Commission by March 1 of each year an annual report describing its diversity, **EQUITY, AND INCLUSION** program activity for the prior year. The annual report shall contain the following elements:

(1) A copy of corporate policy committed to improving diversity, **EQUITY, AND INCLUSION** in the workplace and in the procurement process.

(2) A description of training implemented on diversity, **EQUITY, AND INCLUSION** initiatives in employment and in the contract of goods and services, **INCLUDING THE NUMBER OF TRAININGS, NUMBER OF ATTENDEES, DEPARTMENTS TRAINED, AND TOPICS COVERED.**

(3) The demographic composition of the major jurisdictional utility’s workforce, reporting the number of employees by gender, race and ethnicity, persons with disabilities and veterans, on a form, Demographics of Utility Workforce, to be provided by the Commission.

(4) A description of diversity, **EQUITY, AND INCLUSION** recruiting strategies, **AND HOW THOSE STRATEGIES ARE DESIGNED TO REACH UNDERREPRESENTED COMMUNITIES.**

(5) A description of diversity, **EQUITY, AND INCLUSION** promotion efforts.

(6) A description of diversity retention efforts, **INCLUDING IDENTIFIED DISPARITIES IN WORKFORCE RETENTION.**

(7) A brief description of involvement with organizations promoting diversity, EQUITY, AND INCLUSION.

(8) A brief summary of diverse-owned businesses that the major jurisdictional utility contracts with for goods and services. Include percentage of dollars spent with diverse-owned businesses versus non-diverse businesses.

(b) This information and form shall be filed at a major jurisdictional utility's A-docket.

(c) The Commission will use all available remedies to ensure reporting compliance including fines.