

# PULP (NON) FICTION

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**PULP**  
PENNSYLVANIA  
UTILITY LAW PROJECT

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## WELCOME TO LIHEAP SEASON! NOVEMBER 1 – APRIL 10

The Low Income Home Energy Assistance Program (LIHEAP) officially opened on November 1, 2019. Consumers with income at or below 150% of the Federal Poverty Level can now apply for Cash grants, Crisis grants, and Crisis Interface.

The formula for calculating Cash grants was adjusted and should result in an additional \$15-\$20 for each grant.

LIHEAP applications are available online at <https://www.compass.state.pa.us/> or in person at the local county assistance offices.

If you would like detailed information about LIHEAP, please watch our recording of the November 1 webinar or download our current LIHEAP manual [here](#).

## Cold Weather is Here, and So is the Winter Moratorium!

Winter termination protections are now available for low and moderate income Pennsylvania households. From December 1st through March 31st, PUC regulated electric and gas utilities may not terminate service for customers with household income at or below 250% of the Federal Poverty Level (FPL) without explicit permission from the PUC. During this time, regulated utilities are also prohibited from terminating accounts that are in the name of a landlord. This protection is referred to as the Winter Moratorium.

Winter termination protections are also available to customers of regulated water companies, but only for heat related service. The water service must be necessary for the operation of the heating system (e.g. radiator steam heat).

It is important to remember that there are limits to the winter moratorium protections:

- **The moratorium only applies to PUC regulated utilities.**
  - Low income households who receive service from an unregulated municipal, cooperative, or rural electric utility may still be terminated in the winter months, unless the unregulated utility has adopted voluntary winter protections.
- **The moratorium does not apply to terminations related to unauthorized use, fraud, tampering, tariff violations, or other public safety concerns.**
- **Philadelphia Gas Works (PGW) is subject to different winter moratorium rules.**
  - Philadelphia Gas Works (PGW) may terminate service to customers with income between 151-250% FPL who haven't paid at least 50% of charges for the prior two months, unless an exception applies.
  - Exceptions: (1) there is someone over 65 or younger than 12 in the household, (2) the customer obtains a medical certification, or (3) the customer has paid at least 15% of their household income to PGW in the last twelve months.
- **The winter moratorium does NOT require reconnection if service was off before the winter moratorium began.**
  - Households without service at the start of the winter moratorium will not automatically have service restored.
  - Remember: LIHEAP Cash and Crisis grants could help prevent service termination or restore service if the customer is already off. Utilities may also have hardship funding available. This funding goes fast, so it is important to reach out early and often to check on hardship fund availability.
  - During the 90 days before December 1, utilities were required to conduct a survey of all households who had service terminated within the past year and to make a good faith attempt to reach an agreement regarding payment of any arrearages and restoration of service.

Finally, it is vitally important that customers recognize that the moratorium is on terminations, *not billing*. Customers must continue to pay their bills during the winter moratorium. Customers entering the moratorium with large balances should make every effort to pay down the balance before April and should try not to allow their balance to grow out of control during the winter months. Otherwise, they will likely find themselves in termination proceedings in April.

## Amended CAP Policy Statement Makes Big Improvements, but More Work to be Done!

The Pennsylvania Public Utility Commission took a big step toward improving energy affordability for Pennsylvania's low income consumers by amending its Customer Assistance Program (CAP) Policy Statement to reduce the maximum energy burden (the percentage of income that a household pays for energy) for CAP participants.

### Former Maximum Energy Burden Thresholds

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

### New Maximum Energy Burden Thresholds

Utility Service Type	0-50% FPL	51-100% FPL	101-150% FPL
Electric Heating	6%	10%	10%
Electric Non-Heating	2%	4%	4%
Gas Heat	4%	6%	6%

The amendments will further improve affordability by directing utilities to:

- Exempt CAP customers from late payment charges.
- Provide arrearage forgiveness for each full payment, regardless of CAP arrears.
- Provide lower income households with higher CAP credit limits.
- Evaluate CAP bills at least quarterly to determine if the CAP amount is appropriate.

The Commission also took steps to eliminate common enrollment and reenrollment barriers:

- Allow income documentation of either thirty days or twelve months (whichever is less).
- Allow households to retain their CAP enrollment when moving within the same territory.
- Eliminate requirement that customers need to be "payment troubled" to participate.
- Eliminate requirement that applicants provide a social security number.
- Develop online CAP applications.
- Utilize an industry-wide standard form for households with no income.
- Only include income of *adults* in a residential household for eligibility determination.
- Develop consumer education and outreach plans with input from community partners.

The Commission has also, for the first time, specifically indicated that utilities may recover CAP costs from any ratepayer class, which will allow utilities to spread the cost of these program improvements and will mitigate the increased cost to residential customers.

To be sure, these are significant advancements in achieving utility affordability for all Pennsylvania households. But there is more work to be done to ensure full and lasting implementation of these critical policy changes. To that end, the Commission initiated a formal rulemaking process, set to begin in early 2020. On behalf of CAUSE-PA, PULP intends to fully engage in that process to ensure that these important advancements are enshrined in regulation.

## Peoples Natural Gas: Rate Case Settlement Provides Big Improvements.

In October 2019, the Commission approved the partial settlement in Peoples Natural Gas's recent rate case filing. The key provisions that PULP helped secure, on behalf its clients at the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA), include:

- Reduced overall annual rate increase from proposed \$94.5 million to \$59.5 million.
- Increased annual Low Income Usage Reduction Program (LIURP) funding by \$650,000 per year. LIURP provides free energy efficiency measures for low income households that can significantly reduce household usage.
- Waived reconnection and high bill investigation fees for customers with income at or below 150% FPL.
- No fees for foreign load investigations.
- No credit or debit card payment fees.
- Reduced increase to fixed charge portion of monthly customer bill from proposed \$20 fee to \$14.95 fee.
- Improved Customer Assistance Program (CAP) outreach, including plain language notice about the program.
- Improved customer service staff training regarding medical certificate policies and procedures.

More positive changes are potentially coming as a result of the settlement of the Aqua/Peoples merger proceeding. We will provide updates when the Commission issues a decision in that proceeding.

## UGI: Big Changes Coming as a Result of its Rate Case and USECP Proceedings.

We are pleased to report that positive changes are coming to UGI's low income programs as a result of the advocacy of PULP on behalf of CAUSE-PA, along with other stakeholders. In two recent UGI proceedings, CAUSE-PA intervened to advocate on behalf of low income UGI customers. UGI is one of the largest natural gas distribution companies serving central and northeast Pennsylvania.

### ***The Rate Case: UGI Gas***

In October 2019, the Commission approved the settlement in UGI Gas' rate case. Key terms of the settlement, which PULP negotiated on behalf of CAUSE-PA, include:

- Reduced overall annual rate increase from proposed \$71.1 million to \$30 million.
- Increased Low Income Usage Reduction Program (LIURP) budget by \$400,000 annually.
- Increased Emergency Furnace Repair Program funding by \$100,000 annually.
- Reduced increase to fixed portion of monthly customer bill from proposed \$20 fee to \$14.60.

The Settlement also provides for several critical changes to UGI's universal service programs, including enhancements to the Customer Assistance Program (CAP) enrollment and recertification processes; periodic review of CAP rate plans; more flexible standards for income verification for winter protections; and adjustments to its security deposit collection and retention policies. The terms also ensure that UGI's proposal to consolidate its universal service program budgets will not result in

disproportionate access to assistance across UGI's three rate districts. Finally, the Settlement proposes a number of enhancements to UGI's proposed EE&C Plan to include specific low income program terms – as well as increased funding for UGI's LIURP.

### ***Universal Service and Energy Conservation Plan (USECP) Proceeding***

UGI's USECP proceeding addressed the design and implementation of its low income programs. The Commission required UGI to:

- Improve customer education & communication.
- Implement a procedure to inform applicants of denial or incomplete applications and allow them to complete the application or dispute the denial.
- Accept CAP applications by phone or mail.
- Clarify that a CAP customer who voluntarily leaves CAP may reenroll at any time by paying any missed CAP bills for the months spent out of the program.
- Allow former CAP customers to reenroll in the program by paying their missed CAP payments or full tariff rate for the months spent out of the program, whichever is *lower*.
- Allow residential customers who operate a business from their residence to enroll in CAP, provided they continue to meet the definition of "residential customer."
- Eliminate restriction on CAP for customers with balances over \$4,500 who have failed multiple payment arrangements.
- Review CAP rates once per quarter and adjust rates to the most affordable option available.
- Clarify its income verification process and definition of household income. Note: UGI must now exclude earned or unearned child income, such as SSI, from eligibility determinations.
- Allow hardship fund grants to pay for reconnection fees for any of UGI's subsidiaries.

As a whole, these provisions – along with a few others not included in this summary – will help to dramatically improve the accessibility and affordability of UGI's universal service programming.

### **FirstEnergy (Met-Ed, Penelec, Penn Power, and West Penn Power): Improvements to PCAP.**

In July 2019, the Commission issued a Final Order approving MetEd, Penelec, PennPower, and West PennPower's Universal Service and Energy Conservation Plan (USECP). Collectively, these companies are known as the FirstEnergy utilities. Once the changes from this order are fully implemented by FirstEnergy, they will result in substantial improvements for low income households. Key changes include improvements to FirstEnergy's PCAP recertification and reenrollment procedures, as well as improved coordination of FirstEnergy's PCAP and budget billing procedures.

#### **PCAP Recertification and Reenrollment Improvements**

Under current program rules, if a household fails to recertify their income and continued program eligibility for FirstEnergy's Pennsylvania Customer Assistance Program (PCAP), they are removed from PCAP immediately and begin to receive full tariff bills. This often causes significant affordability problems for several reasons. First, any pre-program arrears (PPA) that were frozen upon initial PCAP enrollment that have not yet been forgiven become immediately due. Second, households are

often not able to pay full bills and require a subsidy. Once this occurs, FirstEnergy will not allow a household to recertify and re-enter PCAP until they become “current” on their bills. While they will re-defer previously deferred arrears, a household would have to pay the total amount of full, undiscounted bills incurred after PCAP removal before they re-enter. This is not possible for most households.

The following critical changes will be implemented in April 2020:

- If a household misses their recertification deadline, FirstEnergy will continue to provide monthly subsidy and/or forgiveness credits to PCAP customers for a three-month suspension period. If the customer does not complete recertification within the three-month suspension period, the account will be removed from PCAP. All balances prior to the PCAP removal are considered PCAP balances and will be treated as PCAP arrears.
- FirstEnergy will not require households to pay their full bills prior to reentry into PCAP, but rather will only require the household to cure the reason for default, which in the case of a failure to recertify requires that the household provide the information needed to recertify.
- If a household provides the documents needed to recertify for PCAP within 12 months of removal from PCAP, the household will receive retroactive subsidy and forgiveness credits.

### **Improved Coordination of PCAP and Budget Billing**

FirstEnergy will change how it coordinates PCAP and budget billing (referred to as the Equal Payment Plan (EPP)). Under the new rules, if a PCAP customer’s EPP amount was less than they actually used for the year, FirstEnergy will not charge PCAP customers for the difference between the amount they were billed and their actual usage amount for the year. Going forward, FirstEnergy will apply a credit to clear this balance. This credit will not reduce the customer’s maximum PCAP credit amount. These changes will make a significant difference for PCAP customers who have unexpectedly high usage.

### **Columbia USECP: Big Improvements to CAP Enrollment on Horizon**

In August, the Commission approved major improvements to Columbia’s Universal Service and Energy Conservation Plan (USECP). Some of the most key improvements include:

- Eliminated Columbia’s in-person CAP application requirement. Columbia must begin accepting CAP applications by both mail and telephone, in addition to the in-person option.
- Required Columbia to develop an online CAP application platform by December 2020.
- Required Columbia to allow CAP customers who voluntarily remove themselves from CAP to reenroll in the program at any time, provided the household pays what they would have paid had they been continuously enrolled in CAP the entire time
- Required Columbia to clarify that it will accept a \$500 hardship fund grant to stop termination or reconnect service, regardless of the balance owed.
- Required Columbia, for the purpose of establishing CAP eligibility, to exclude income earned by a household member under 19 years of age.

## PULP Staffing Updates:

PULP has a number of exciting staff transitions to announce!

On October 7, 2019 PULP welcomed our new Staff Attorney, Ria Pereira. Prior to joining PULP, Ria worked as a staff attorney for a domestic violence agency through its civil legal representation project. Ria can be reached at 717-710-3839 or [rperierapulp@palegalaid.net](mailto:rperierapulp@palegalaid.net).

Also, on November 11, 2019, PULP Executive Director, Patrick Cicero, was appointed to be the next Executive Director of the Pennsylvania Legal Aid Network! His last day at PULP will be January 10, 2020, at which time PULP's Supervising Attorney, Elizabeth Marx, will succeed Patrick as PULP's next Executive Director. Elizabeth can be reached at 717-710-3825 or [emarxpulp@palegalaid.net](mailto:emarxpulp@palegalaid.net).

## Contact the Pennsylvania Utility Law Project:

### **Contact for Advocates**

Advocates can contact PULP with questions about how to assist a client to connect, maintain, or prevent termination of their electric, natural gas, or water utility account.

717-236-9486 / [pulp@palegalaid.net](mailto:pulp@palegalaid.net)

### **Contact for Clients**

Low income clients who are unable to connect to service or are facing a utility termination can call the Utility Hotline for assistance with resolving their utility issue.

Toll Free: 1-844-645-2500 / [utilityhotline@palegalaid.net](mailto:utilityhotline@palegalaid.net)

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