



Policy Recommendations on Energy Issues

Transition Memo for the Biden-Harris Administration from Community Legal Services of Philadelphia

Community Legal Services (CLS) of Philadelphia is a nationally renowned legal services organization dedicated to fighting poverty and challenging systems that perpetuate injustice. CLS's Energy Unit advocates so that people have access to affordable water, heat, electricity, telecommunications and broadband services in their homes. As energy advocates, we fight for policy solutions that ameliorate economic and systemic injustice. Low-income communities of color are besieged by the triple threat of unaffordable energy bills, the climate crisis, and pervasive racism. Our nation's energy solutions must respond to each threat by ensuring a just transition to an affordable clean energy future and eliminating utility terminations in low-income communities.

CLS's Energy Unit has played a leading role in ensuring the affordability of home energy and water services in Philadelphia. Our work has resulted in reduced energy burdens for Pennsylvania's low-income energy consumers¹ and the establishment of the nation's first income-based water affordability program, the Tiered Assistance Program in Philadelphia.²

CLS stands ready to work with the new Administration to overcome our nation's energy, water, telecommunications and broadband challenges.³ We are encouraged to see climate change at the top of the Administration's priorities and we share the view that "the current COVID-19 pandemic reminds us how profoundly the energy and environmental policy decisions of the past have failed communities..."⁴ We encourage the new Administration to work in tandem with community-based organizations, nonprofits, and activists to ensure that federal energy solutions meet the needs of communities that have been too often failed by federal policy and inaction.

1. Center Racial Justice and Energy Affordability

We urge the Administration to set forth a bold vision for economic justice and to keep the affordability of energy, water, telecommunications and broadband services at the forefront of all energy policy decisions. While some of our recommendations will require legislative intervention, we believe that this Administration can set a tone and create a sense of urgency

¹ In September 2019, the Pennsylvania Public Utility Commission modified its Policy Statement on Customer Assistance Programs (CAP). Available at: <https://www.puc.pa.gov/pdocs/1636779.pdf>. As part of that effort, the Commission substantially lowered the energy burdens (the percent of monthly income spent on energy costs) for low-income consumers who participate in utility CAPs. Under the Commission's new affordability policy, the CAP energy burden will be targeted at 10% of total household income for most low-income households and 6% for Pennsylvania households with the lowest household income, a stark contrast from the 17% that was permissible under the Commission's discarded guidelines. CLS frequently partners with the Pennsylvania Utility Law Project (PULP) in advocating for statewide energy policy reform.

² See, e.g., <https://nextcity.org/daily/entry/how-philadelphia-has-tried-to-address-water-debt>.

³ CLS supports the National Consumer Law Center's Energy, Water, and Communications Priorities for COVID Relief & Biden's First 100 Days. Available at: https://www.nclc.org/images/pdf/special_projects/covid-19/IB_Energy_Utility_COVID_Recovery_Transition_Priorities.pdf

⁴⁴ <https://buildbackbetter.gov/priorities/climate-change/>

around our nation's energy priorities. The importance of visionary leadership cannot be overstated. We ask this Administration to speak loudly and to act consistently in favor of a just, clean energy transition, ensuring universally affordable energy, water, telecommunications and broadband services. The voices and concerns of communities of color should be at the center of our nation's energy decisions and energy priorities should be set with due consideration for the health and economic sustainability of low-income households.

2. Act to Prevent a Utility Termination Crisis as our Nation Recovers From COVID-19

In Pennsylvania, limited termination prevention measures for low-income utility consumers are set to expire on March 31, 2021.⁵ Without additional action from our state and federal government, millions of Pennsylvanians will be at risk of utility termination in the spring. This energy termination crisis is set to unfold as moratoriums on evictions and foreclosures also expire, threatening massive housing destabilization and utter devastation in low-income communities throughout the state.

Continuing, bipartisan efforts in Congress can bring temporary relief to households that are struggling to keep up with their utility bills. While stimulus funding has provided necessary short-term infusions of financial assistance to utility consumers, long-term solutions are essential to preventing utility terminations while our nation works to get the virus under control and down the long road to real recovery.

- We urge the Administration to prioritize increasing funding for relief of utility indebtedness, including relief of debt owed to municipal utilities. To incentivize utilities to preserve utility service throughout the duration of the pandemic and recovery period, all federal funding should be conditioned upon a requirement that states receiving such funding implement and/or continue prohibitions on terminations of service for any utility grantees.

3. Expand Funding for Federal Energy Assistance and Ensure That Households Have Year-Round Access to Energy Relief Funds

We urge the Administration to set forth a bold vision The Low Income Home Energy Assistance Program (LIHEAP) provides a critical resource to Pennsylvania energy consumers. Now, and for the foreseeable future, LIHEAP will play a key role in preventing the growth of COVID-19 related utility arrears.

⁵ As of November 2020, Philadelphia-area gas and electric utilities had identified more than 280,000 residential accounts at risk of termination due to past due account balances, including tens of thousands of low-income consumers. <https://www.puc.pa.gov/pcdocs/1687311.pdf>; <https://www.puc.pa.gov/pcdocs/1687208.pdf>.



- We support a meaningful expansion in LIHEAP funding to ensure that low-income households can afford their energy costs for the duration of the pandemic and recovery period.⁶
 - a. The US Department of Health and Human Services should encourage state agencies that administer LIHEAP to operate their programs on a year-round basis. In Pennsylvania, LIHEAP operates throughout the winter heating season, while the need for affordable energy during the summer months continues to increase due to climate change.⁷ Focusing solely on a winter program results in unspent funds that are distributed inconsistently and in ways that confound consumers. We implore Congress to condition the receipt of LIHEAP funds upon a requirement that states operate their LIHEAP programs on a year-round basis. Consumers need year-round access to energy assistance funds to afford both heating and cooling costs and to pay down mounting utility arrears.

4. Invest in America's Water Infrastructure and Alleviate the Burden on Utility Ratepayers

Cities across the country struggle with limited options to fund necessary investment in water and wastewater infrastructure – the sources available are limited to ratepayer funds (including debt secured by such funds) and general tax revenues. Increasing water rates on the same scale that has emerged over the past two decades is untenable and threatens access to vital, life-essential water service.⁸ At the same time, the benefit of infrastructure investments is not limited to the delivery of clean, potable water, but confers broader environmental benefit to surrounding communities.

- a. To aid local communities, and begin to rectify the mismatch between who pays and who benefits, the Administration should establish federal grant funding for municipalities to invest in water and wastewater infrastructure to meet Clean Water Act goals while directing grant recipients to establish customer assistance programs to provide affordable bills for low-income customers.

5. Prioritize Universal Telecommunications & Broadband and Expand the Power of Local Communities

⁶ CLS supports the \$10 billion LIHEAP funding expansion recommended by the National Energy Assistance Directors' Association (NEADA). A letter from NEADA to Congressional leaders is available at: <https://neada.org/wp-content/uploads/2020/12/liheap10bjoint.pdf>

⁷ <http://www.depgis.state.pa.us/ClimateChange/index.html>

⁸ A May 2020 study on the cost and affordability of water and sewage services found that Philadelphia will have 68% of its low-income population living in Census tracts with an unaffordable water burden by the year 2030, an increase from just over half of its low-income population in 2017. See, <https://www.theguardian.com/environment/2020/jun/23/full-report-read-in-depth-water-poverty-investigation>.



The digital divide has been exacerbated by the pandemic, contributing to further economic hardship for low-income families. In Philadelphia, around 38% of households with annual income less than \$20,000 do not have any [internet subscription at home](#).⁹ Although Philadelphia public schools moved to virtual learning during the pandemic, in May 2020 only 57% of students in Philadelphia were participating in [online learning](#), partly due to lack of internet access.¹⁰ At the same time, Federal limitations effectively curtail the ability of local communities to meet their broadband needs.

- a. We support a meaningful expansion in funding for telecommunications and broadband services, including the federal Lifeline program, to ensure that low-income households can obtain services, interact with health care providers, attend remote learning, and otherwise participate virtually in their communities for the duration of the pandemic and recovery period.
- b. We recommend that the Administration prioritize reversing federal government restrictions on local communities by:
 - i. Permitting cable franchises to provide low- or no-cost broadband internet access without regard to franchise fee limitations, and
 - ii. Enabling communities to recover the full cost of cable providers' use of local resources.

6. *Advance Racial Justice by Investing in Home Repair Programs and Collecting Data*

Philadelphia is uniquely distinguished among large cities with high rates of poverty by its having a high rate of homeownership among its low-income communities. Thirty-eight percent of low-income Philadelphians live in owner-occupied homes.¹¹ According to the U.S. Census Bureau's American Community Survey, Hispanic Philadelphians have the highest poverty rate in Philadelphia at 37.8 percent, while non-Hispanic Black Philadelphians have a poverty rate of 27.8 percent.¹² At the same time, 50% of Hispanic Philadelphia households and 46% of non-Hispanic Black Philadelphia households are cost-burdened.¹³ Preserving and expanding opportunities for homeownership is a core component of rectifying the racial wealth gap in Philadelphia.

While many low-income Philadelphians live in owner-occupied housing, the low quality of Philadelphia's housing stock is a constant threat to the stability of these homes. Philadelphia homes are older than homes across the country.¹⁴ Locally funded programs provide limited opportunities for low-income homeowners to repair their homes. Structurally unsound houses

⁹ <https://technical.ly/philly/2020/08/07/all-of-philadelphia-needs-remote-access-to-services-heres-how-it-can-happen/>

¹⁰ *Id.*

¹¹ <https://www.pewtrusts.org/en/research-and-analysis/reports/2020/09/the-state-of-housing-affordability-in-philadelphia>

¹² *Id.*

¹³ *Id.*

¹⁴ <https://whyy.org/articles/old-homes-high-poverty-make-philadelphia-housing-less-than-affordable-for-some/>



contribute to energy waste and energy affordability concerns. Many low-income Philadelphia homeowners struggle to keep up with high energy costs that they cannot control due to the condition of their properties.

- a.** To aid low-income homeowners in the preservation of housing, the Administration should establish federal grant funding for municipalities to invest in home repair programs.
- b.** We support a meaningful expansion in funding for the federal Weatherization Assistance Program, which will allow low-income homeowners to make energy efficiency enhancements to their homes and reduce their energy consumption and costs.

Racial disparities in energy affordability persist throughout the nation. Utilities and utility regulators fail to collect robust data that would permit a complete understanding of the extent or root cause of these disparities.¹⁵ Pennsylvania utilities collect virtually no data on the harm that unaffordable rates cause communities of color. To begin to address this problem, the Administration should require federal programs like LIHEAP and WAP that provide energy assistance to states to collect demographic data on program beneficiaries. The raw data should be at the Census block or nine-digit zip code level and be publicly accessible.

¹⁵ <https://energynews.us/2020/07/01/midwest/racial-disparities-persist-in-electric-service-is-willful-blindness-to-blame/>



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