

**BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PECO Energy Company Universal Services  
Three-Year Plan 2016-2018

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Docket No. M-2015-2507139

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**Petition to Intervene  
of the Coalition for Affordable Utility Services  
and Energy Efficiency in Pennsylvania**

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**PENNSYLVANIA UTILITY LAW PROJECT**

*Counsel for CAUSE-PA*

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**February 25, 2016**

Pursuant to the provisions of the Rules of Practice and Procedure of the Pennsylvania Public Utility Commission (“PUC” or “Commission”), 52 Pa. Code §§ 5.61-5.76, the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (“CAUSE-PA”), through its counsel at the Pennsylvania Utility Law Project, hereby petitions the Pennsylvania Public Utility Commission (“Commission”) to intervene in the above-captioned proceeding. In support thereof, CAUSE-PA states as follows:

1. On October 2, 2015, PECO Energy Company submitted its Universal Service and Energy Conservation Plan for the period 2016-2018 (USECP).

2. On February 25, 2016, the Commission issued a tentative order raising specific issues with PECO’s plan as filed, and requesting comments and reply comments from interested parties.<sup>1</sup>

3. The PECO USECP sets forth a needs assessment, as well as the proposed program design, budget, enrollment, and implementation plans for PECO’ universal service and energy conservation programs, including its Customer Assistance Program (CAP), Low Income Usage Reduction Program (LIURP), Customer Assistance Referral and Evaluation Services Program (CARES), and its Hardship Fund, the Matching Energy Assistance Fund (MEAF).

4. While this proceeding has not been referred to the Office of Administrative Law Judge to initiate an official litigated proceeding, CAUSE-PA nonetheless files this Petition to Intervene to ensure that it is fully informed of the activities in the proceeding and in anticipation that the Commission will refer the matter to OALJ to resolve a multitude of critical aspects related to PECO’s delivery of universal service and energy efficiency programming and its service of low income customers through that programming.

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<sup>1</sup> See Tentative Order, Docket No. M-2015-2507139 (Feb. 25, 2016)

5. A hearing on this case is necessary because there are issues of material fact that must be addressed. *Chester Water Auth. v. P.U.C.*, 822 A.2d 146, 152 (Pa. Commw. 2003) (holding that “[w]here issues of material fact are raised, however, due process concerns require a hearing.”).

6. Eligibility to intervene in Commission proceedings is governed by 52 Pa. Code § 5.72, which provides in relevant part that “[a] petition to intervene may be filed by a person claiming a right to intervene or an interest of such nature that intervention is necessary or appropriate to the administration of the statute under which the proceeding is brought.” 52 Pa. Code § 5.72(a).

7. Section 5.72 further provides that the right or interest may be one “which may be directly affected and which is not adequately represented by existing participants, and as to which the petitioner may be bound by the action of the Commission in the proceeding.” 52 Pa. Code. § 5.72(a)(2).

8. Even though Section 5.72 speaks of the rights of a “person” to intervene, the Commonwealth Court has consistently stated that “an association may have standing as a representative of its members ... as long as an organization has at least one member who has or will suffer a direct, immediate, and substantial injury to an interest as a result of the challenged action, [i.e., is aggrieved, the organization] has standing.” *Energy Cons. Council of Pa. v. Pa. P.U. C.*, 995 A.2d 465, 476 (Pa. Commw. 2010) (alteration in original) (citing *Tripps Park v. Pa. P.U. C.*, 415 A.2d 967 (Pa. Commw. 1980); *Parents United for Better Schools v. School District of Philadelphia*, 646 A.2d 689 (Pa. Commw. 1994)).

9. CAUSE-PA is an unincorporated association of low-income individuals that 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.

10. 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.

11. CAUSE-PA is located, c/o the Pennsylvania Legal Aid Network, at 118 Locust Street, Harrisburg, PA 17101.

12. CAUSE-PA has a significant interest in the impact that PECO's USECP will have on moderate and low income residential customers. These interests are not adequately represented by other participants.

13. CAUSE-PA asserts that PECO's USECP, and any future modifications presented by intervening parties, must be thoroughly litigated to ensure that all customers are able to access safe, affordable electric and gas service in the PECO service territory. In particular, CAUSE-PA has an express interest in ensuring that the following aspects of the PECO's three-year plan are adequately explained and appropriately targeted in accordance with applicable statutes, regulations, policies, and prior settlements:

- a. PECO's plans for the new Customer Assistance Program (CAP) Fixed Credit Option, including but not limited to
  - i. Consumer outreach and education to existing CAP customers about the change in CAP structure;
  - ii. Levels of CAP enrollment and outreach efforts to increase enrollment in CAP;

- iii. Enrollment of LIHEAP recipients in CAP;
  - iv. Eligibility for Payment Arrangements;
  - v. Treatment of Medical Certificates submitted by CAP and CAP-eligible customers;
  - vi. Verification processes for CAP enrollment, such as the use of Credit Reporting Agencies to estimate income and remove individuals from CAP; and
  - vii. Removals from CAP for LIURP refusals and for failing to recertify.
- b. PECO's Low Income Usage Reduction Program (LIURP), including but not limited to:
- i. Increased funding of \$700,000 to target de facto heating as required by prior settlement and approved by the Commission;<sup>2</sup>
  - ii. Increased funding of \$ 1,000,000 for LIURP as required by prior settlement and approved by the Commission;<sup>3</sup> and
  - iii. Proper enrollment levels for LIURP.
- c. PECO's policies regarding security deposits for CAP-eligible customers;
- d. PECO's policies regarding the treatment of customers with a Protection From Abuse Order or similar court order with evidence of domestic violence;
- e. PECO's LIHEAP Outreach and how LIHEAP payments are applied to CAP customer accounts;

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<sup>2</sup> Pennsylvania Public Utility Commission, *Order*, Docket No. M-2012-2290911 (July 8, 2015) (adopting recommended decision of Administrative Law Judge approving the joint settlement without modification).

<sup>3</sup> *Id.*

- f. PECO's CARES program; and
- g. PECO's Hardship Fund (MEAF).

14. Whether PECO's proposed Universal Services Plan properly addresses the needs of its low-income consumers is an issue of material fact that requires a litigated hearing in front of an ALJ. *See Chester Water Auth. v. P.U.C.*, 822 A.2d 146, 152 (Pa. Commw. 2003).

15. Several members of CAUSE-PA are PECO customers and will be directly affected by the outcome of this proceeding.<sup>4</sup>

16. CAUSE-PA has standing to intervene because several of its members have or will suffer a direct, immediate, and substantial injury to an interest as a result of this proceeding. *See Energy Cons. Council of Pa.*, 995 A.2d at 476.

17. CAUSE-PA is represented in this proceeding by:

Joline Price, Esquire  
Patrick Cicero, Esquire  
Elizabeth R. Marx, Esquire  
**Pennsylvania Utility Law Project**  
118 Locust Street  
Harrisburg, PA 17101  
Telephone: 717-236-9486  
Facsimile: 717-233-4088  
E-mail: [pulp@palegalaid.net](mailto:pulp@palegalaid.net)

18. Counsel for CAUSE-PA consents to the service of documents by electronic mail to [pulp@palegalaid.net](mailto:pulp@palegalaid.net), as provided in 52 Pa. Code § 1.54(b)(3).

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<sup>4</sup> Ms. Marsha Mathis, Ms. Jahala McClendon, Mr. Carl Bailey and Ms. Sonia Brookins are all customers of PECO Energy Company. All five of these customers are also members of CAUSE-PA.

WHEREFORE, CAUSE-PA respectfully requests that the Commission enter an order granting CAUSE-PA full status as an intervener in this proceeding with active party status.

Respectfully submitted,

**PENNSYLVANIA UTILITY LAW PROJECT**  
*Counsel for CAUSE-PA*



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Date: February 29, 2016

### **Verification**

I, **Carl Bailey**, a member of the Executive Committee of the Coalition for Affordable Utility Services and Energy Efficiency (“CAUSE-PA”), on behalf of CAUSE-PA, hereby state that the facts contained in the foregoing pleading are true and correct to the best of my knowledge, information and belief, that I am duly authorized to make this Verification, and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 10 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

  
Mr. Carl Bailey

On behalf of the Executive Committee of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA)

Date: February 29, 2016