

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PETITION OF PECO ENERGY	:	
COMPANY FOR APPROVAL OF ITS	:	
ACT 129 PHASE III ENERGY	:	Docket No. M-2015-2515691
EFFICIENCY AND CONSERVATION	:	
PLAN	:	

JOINT PETITION FOR SETTLEMENT

February 17, 2016

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EXHIBITS AND STATEMENTS IN SUPPORT

Exhibit 1	Revised PECO Act 129 Phase III Energy Efficiency and Conservation Plan (Program Years 2016-2020) (clean and redline)
Exhibit 2	Proposed Supplement Setting Forth Revisions to PECO’s Electric Service Tariff (clean and redline)
Statement A	Statement in Support of Joint Petition for Settlement of PECO Energy Company
Statement B	Statement in Support of Joint Petition for Settlement of the Office of Consumer Advocate
Statement C	Statement in Support of Joint Petition for Settlement of the Office of Small Business Advocate
Statement D	Statement in Support of Joint Petition for Settlement of the Coalition For Affordable Utility Services And Energy Efficiency In Pennsylvania
Statement E	Statement in Support of Joint Petition for Settlement of Nest Labs, Inc.
Statement F	Statement in Support of Joint Petition for Settlement of EnerNOC, Inc.
Statement G	Statement in Support of Joint Petition for Settlement of the Philadelphia Area Industrial Energy Users Group

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TO THE HONORABLE ANGELA T. JONES AND THE HONORABLE DARLENE D. HEEP, ADMINISTRATIVE LAW JUDGES:

PECO Energy Company (“PECO” or the “Company”), the Office of Consumer Advocate (“OCA”), the Office of Small Business Advocate (“OSBA”), the Coalition For Affordable Utility Services And Energy Efficiency In Pennsylvania (“CAUSE-PA”), Nest Labs, Inc. (“Nest”), EnerNOC, Inc. (“EnerNOC”) and the Philadelphia Area Industrial Energy Users Group (“PAIEUG”) (collectively, the “Joint Petitioners”), by their respective counsel, submit this Joint Petition For Settlement (“Settlement”) in the above-captioned proceeding and request that the Pennsylvania Public Utility Commission (the “Commission”) approve the Settlement without modification.¹ In support of this Settlement, the Joint Petitioners state as follows:

I. BACKGROUND

1. On November 30, 2015, PECO petitioned the Commission for approval of the Company’s Phase III Energy Efficiency and Conservation Plan (“Phase III Plan” or “Plan”) to achieve energy and demand savings in accordance with the requirements of Act 129 of 2008, 66 Pa.C.S. § 2806.1 (“Act 129” or the “Act”) and the Commission’s Implementation Order

¹ Wal-Mart Stores East, LP and Sam’s East, Inc. (“Walmart”) and the Retail Energy Supply Association (“RESA”), which are also parties to this proceeding, have authorized the Joint Petitioners to represent that they do not oppose the Settlement and take no position on the Settlement, respectively.

entered June 19, 2015 at Docket No. M-2014-2424864 (the “Phase III Implementation Order”). Specifically, PECO requested that the Commission: (1) find that the Phase III Plan satisfies the requirements of 66 Pa.C.S. § 2806.1(b)(1) and the Phase III Implementation Order, including those provisions mandating the implementation of programs designed to achieve the peak demand reduction and consumption reduction targets established for PECO and the energy savings carve-outs for the governmental, educational and non-profit (“G/E/NP”) and low-income customer sectors; and (2) approve a supplement to PECO’s Electric Service Tariff to implement a Section 1307 surcharge to recover Phase III Plan costs. PECO’s Plan contains five energy efficiency (“EE”) programs and three demand response (“DR”) programs designed to satisfy the Company’s Phase III energy and demand savings targets, stay within applicable cost limitations, and increase customer access to energy saving opportunities.

2. Accompanying its Petition, PECO filed the direct testimony and accompanying exhibits of Kathleen A. Lentini (PECO Statement No. 1), Nicholas DeDominicis (PECO Statement No. 2), Toben E. Galvin (PECO Statement No. 3) and Richard A. Schlesinger (PECO Statement No. 4).

3. A Notice of Intervention and Public Statement was filed by the OCA on December 10, 2015. A Petition to Intervene was filed by CAUSE-PA on December 17, 2015. A Notice of Intervention, Public Statement and Notice of Appearance was filed by the OSBA on December 18, 2015. A Petition to Intervene was filed by Walmart on December 31, 2015. Petitions to Intervene were filed by PAIEUG, RESA and Nest on January 4, 2016. A Petition to Intervene was filed by EnerNOC on January 8, 2016. In addition, on January 4, 2016,

Comments to PECO's Petition were filed by the following parties: Nest, OCA, PAIEUG and RESA.² CAUSE-PA filed a Letter in lieu of comments and OSBA filed an Answer.

4. This case was assigned to Administrative Law Judges Angela T. Jones and Darlene D. Heep (the "ALJs") and a Prehearing Conference was held on January 12, 2016, at which a schedule was established for the submission of testimony, briefs and a revised Phase III Plan, as well as the conduct of evidentiary hearings.

5. Pursuant to the established litigation schedule, written direct testimony was submitted by the OCA, CAUSE-PA, EnerNOC and Nest, and written rebuttal testimony was submitted by PECO. Discovery was conducted and, after the submission of written testimony, the parties engaged in discussions to try to achieve a settlement of some or all of the issues in this case.

6. On February 1, 2016, the parties notified the ALJs that they had reached a settlement in principle and agreed to waive cross-examination of their respective witnesses and stipulate the admission to the record of their witnesses' testimony and exhibits, if any. On February 2, 2016, a hearing was held for the purpose of admitting witness testimony and exhibits into the record and establishing a schedule for the submission of settlement documents and a revised Phase III Plan.

7. By Order #4 issued on February 2, 2016, the ALJs established February 19, 2016 as the due date for the submission of settlement documents and a revised Phase III Plan.

² Comments were also filed by the following entities who are not parties in this proceeding: Energy Efficiency for All, EnergyHub, and Joint Commentators (consisting of PennFuture, Sierra Club, Keystone Energy Efficiency Alliance, Natural Resources Defense Council, Environmental Defense Fund and Clean Air Council).

II. TERMS AND CONDITIONS OF SETTLEMENT

8. The Joint Petitioners have agreed to the following Settlement terms and conditions which are reflected, as appropriate, in the revised Phase III Plan (Exhibit 1) and Electric Service Tariff Supplement (Exhibit 2) attached to this Joint Petition:

A. Multi-Family Programming

9. PECO will accept the GDS Associates' definition of "multi-family" housing as set forth in the Energy Efficiency Potential Study for Pennsylvania (February 2015). In particular, PECO's Plan will be revised to indicate that "multi-family" includes all building types with more than one unit when the building is bigger than a duplex (or 1-family attached unit).

10. PECO does not designate buildings as low-income for purposes of its multi-family programming initiatives. In administering its EE programs henceforth, the Company will count savings from both individually-metered and certain master-metered multi-family buildings towards the low-income carve out if those savings can be attributed to households with incomes at or below 150% of the federal poverty income guidelines and subject to the Commission's approval of this term as part of its approval of the Settlement. For individually-metered units, PECO will count savings from confirmed low-income customers. In master-metered buildings that have received federal, state, local, or tax credit funding and have long-term use restrictions on rent or income-eligibility, PECO will work with the building owner to identify units occupied by households whose income does not exceed 150% of the federal poverty income guidelines and will rely on the certification of the building owner when this information is readily verifiable by the building owner/operator.

11. Notwithstanding the foregoing in paragraph 10, PECO agrees to work with interested parties as part of the Commission's Multi-Family Working Group to develop an acceptable definition of "low-income building" for purposes of counting savings towards the low-income carve-out and present that definition to the Commission for approval.

12. Both master-metered and individually-metered multi-family properties will be eligible for all measures contained in the entire portfolio. Costs and savings related to multi-family measures delivered to residential, individually-metered customers will be assigned to the residential class. Costs and savings related to multi-family measures delivered to residents in master-metered buildings will be assigned to the applicable commercial and industrial ("C&I") class.

13. For measures installed in common areas of multi-family buildings, the costs and savings will be assigned according to the type of meter associated with the particular common area. Common areas of buildings where at least 66% of its units are verified low-income residents will be eligible for the same subsidy as the Low-Income EE Program. For multi-family buildings in which verified low-income residents comprise less than 66% of units, the subsidies for common areas in individually-metered buildings and all subsidies for master-metered buildings, except for those subsidies provided to residences that are verified as low-income pursuant to the terms of paragraph 10, *supra*, will be consistent with those available to other customers in the rate class in which electric service is taken.

14. No later than December 1, 2016, PECO will conduct a stakeholder meeting with interested multi-family housing owners, developers, and other interested stakeholders. PECO will work with the Housing Alliance of Pennsylvania, other interested groups (to be

identified in collaboration with CAUSE-PA), and PECO's conservation service providers ("CSPs") to identify multi-family housing owners and developers to invite to the meeting. The purpose of the stakeholder meeting will be to solicit feedback about the Company's multi-family offerings and to identify potential changes to the Company's programs related to multi-family housing.

15. To the extent practicable, PECO will coordinate with the Pennsylvania Housing Finance Authority ("PHFA") to align the eligibility of measures in Act 129 low-income multi-family buildings with PHFA's Qualified Allocation Plan and Energy Rebate Analysis.

B. Residential and Small C&I EE Programs

16. Starting in Program Year 2018, PECO will begin to phase out incentives for compact florescent lights ("CFLs") in its Residential and Small C&I EE Programs. By Program Year 2019, PECO will no longer offer incentives for the purchase of CFLs as part of its Residential and Small C&I EE Programs. Beginning in Program Year 2019, all lighting incentives for the Residential and Small C&I EE Programs will be for non-CFLs as proposed in the Plan.

17. All EE kits in the Residential EE Program with lighting measures will include at least one light-emitting diode ("LED") lamp. PECO may include additional LED lamps if their inclusion does not jeopardize the Company's ability to meet its EE target within its budget.

18. Following the end of Program Year 2017, PECO will provide the parties with a report (the "Final PY2017 Annual Report") of the actual, verified savings achieved from the

Residential Behavioral EE Solution for that program year. Following the receipt of the Final PY2017 Annual Report, if the Residential Behavioral EE Solution is not achieving its expected level of savings, then PECO and the other stakeholders will convene a meeting to discuss what strategies could be implemented to address any concerns related to that solution.

19. PECO agrees that at least once per year, prior to the commencement of a program year, PECO will include a review of the content of the Residential home energy reports and Small C&I energy reports as an agenda item for a stakeholder meeting. PECO agrees that it will consider comments from the stakeholder meetings regarding the content of these reports.

20. Smart/learning thermostats will be considered an eligible measure under the Residential New Construction Solution.

21. PECO will offer a rebate for smart/learning thermostats in the range of \$15 to \$200 under the Residential Lighting, Appliances and HVAC Solution.

22. At the end of Program Year 2017, PECO will evaluate the implementation of the energy intelligence aspect of its proposed Small C&I Behavioral Solution to help maximize customer engagement and program objectives. In Program Year 2018, PECO will provide the results of the evaluation to stakeholders and, through a collaborative process, will identify recommendations, which may include improvements to and/or the expansion of the existing Small C&I Behavioral Solution in Program Year 2019.

C. Low-Income EE Program

23. The \$1 million annual Low-Income EE Program expenditure dedicated to CAP customers with high usage and incomes at 0-50% of the Federal Poverty Level to which PECO agreed as part of the recent settlement of its Three-Year Plan proceeding³ will be an addition to funds that the Company would have otherwise dedicated to the Low-Income EE Program and these funds will be applied only towards direct install measures for this population.

24. Starting in Program Year 2018, PECO will begin to phase out incentives for CFLs in the Low-Income EE Program. By Program Year 2019, PECO will no longer offer the direct installation of CFLs or provide CFLs in EE kits as part of its Low-Income EE Program, but will instead provide LEDs as part of the Program.

25. Any distribution of EE kits as part of the Low-Income EE Program will be accompanied by an interactive educational component informing the kit recipient about how to install the contents of the kit and the benefits of that installation. A CSP completing direct installation measures as part of the Low-Income EE Program will provide an EE kit to the recipient of those measures if the CSP believes it would be beneficial for the recipient and would not be duplicative of the measures already installed.

26. The Low-Income EE Program does not have a distinct education and awareness component and such activities do not comprise a substantial portion of the Program budget.

³ See *PECO Energy Company Universal Service and Energy Conservation Plan for 2013-2015 Submitted in Compliance with 52 Pa.Code §§ 54.74 and 62.4*, Docket No. M-2012-2290911 (Order entered July 8, 2015) (approving the Joint Petition for Settlement).

The Company does, however, provide education to customers when directly installing measures in a low-income household and when providing EE kits.

27. PECO will continue to implement the Low-Income EE Program after meeting its low-income carve-out subject to the Commission-approved budget for the Low-Income EE Program.

28. As part of its Low-Income EE Program, PECO shall offer smart/learning thermostats to low-income customers and residents of master-metered multi-family buildings that are verified as low-income pursuant to the terms of paragraph 10, *supra*, as an eligible measure for residences for which such thermostats will control central electric heating and/or central electric cooling, subject to landlord approval, available Program funds and the overall program acquisition cost of the Low-Income EE Program. Consistent with the other direct install measures in the Low-Income EE Program, the smart/learning thermostats will be offered at no cost to low-income customers and residents of master-metered multi-family buildings that are verified as low-income pursuant to the terms of paragraph 10, *supra*.

D. Cost Recovery Tariff

29. The Electric Service Tariff Supplement attached as Exhibit 2 to this Joint Petition corrects several typographical errors and provides additional clarity concerning reconciliation statements to address the issues raised by OCA witness Geoffrey C. Crandall.

E. Stakeholder Meetings

30. In the first stakeholder meeting scheduled after Phase III begins, and in future stakeholder meetings as may be necessary, PECO will include an agenda item to discuss the

recent changes in Federal Law relating to the replacement of 55 gallon and larger electric resistance domestic hot water heaters. PECO will consider comments from the stakeholder meetings regarding this change in Federal Law, and will explore ideas or programs that may be beneficial to its customers as to the new legal requirements for this group of domestic hot water heaters.

31. PECO will review the performance of the three solutions in the Residential DR Program with stakeholders after Program Year 2018 and will consider adjustments in approaches based on achieved results and the Commission-approved budget for the Residential DR Program.

32. PECO will review the performance of the Small C&I DR Program with stakeholders after Program Year 2018 and consider adjustments to drive down Program costs and increase Program benefits to improve the cost-effectiveness of the Program, subject to the Commission-approved budget for the Small C&I DR Program.

33. PECO will review the performance of the Large C&I DR Program with stakeholders after Program Year 2018 and consider adjustments in approaches based on achieved results and the Commission-approved budget for the Large C&I DR Program.

III. THE SETTLEMENT IS IN THE PUBLIC INTEREST

34. PECO, OCA, OSBA, CAUSE-PA, Nest, EnerNOC and PAIEUG have prepared, and attached to this Joint Petition, Statements in Support identified as Statements A through G, respectively, setting forth the bases on which they believe the Settlement is in the public interest.

35. The Joint Petitioners submit that the Settlement is in the public interest for the following additional reasons:

- ***Substantial Litigation And Associated Costs Will Be Avoided.*** The Settlement amicably and expeditiously resolves a number of important and contentious issues. The administrative burden and costs to litigate these matters to conclusion would be substantial.
- ***The Settlement Is Consistent With Commission Policies Promoting Negotiated Settlements.*** The Joint Petitioners arrived at the Settlement terms after conducting discovery and engaging in in-depth discussions. The Settlement terms and conditions constitute a carefully crafted package representing reasonable negotiated compromises on the issues addressed herein. Thus, the Settlement is consistent with the Commission's rules and practices encouraging negotiated settlements (see 52 Pa. Code §§ 5.231 and 69.391), and is supported by substantial record evidence.

IV. ADDITIONAL TERMS AND CONDITIONS

36. The Commission's approval of the Settlement shall not be construed as approval of any party's position on any issue, except to the extent required to effectuate the terms and agreements of the Settlement. Accordingly, this Settlement may not be cited as precedent in any future proceeding, except to the extent required to implement this Settlement.

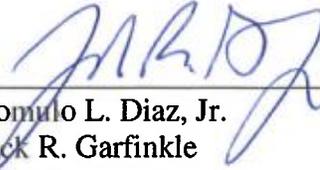
37. It is understood and agreed among the Joint Petitioners that the Settlement is the result of compromise and does not necessarily represent the position(s) that would be advanced by any party in this or any other proceeding, if it were fully litigated.

38. This Settlement is being presented only in the context of this proceeding in an effort to resolve the proceeding in a manner that is fair and reasonable. This Settlement is presented without prejudice to any position which any of the parties may have advanced and without prejudice to the position any of the parties may advance in the future on the merits of the issues in future proceedings, except to the extent necessary to effectuate the terms and conditions of this Settlement.

39. This Settlement is conditioned upon the Commission's approval of the terms and conditions contained herein without modification. If the Commission should disapprove the Settlement or modify the terms and conditions herein, this Settlement may be withdrawn upon written notice to the Commission and all active parties within five business days following entry of the Commission's Order by any of the Joint Petitioners and, in such event, shall be of no force and effect. In the event that the Commission disapproves the Settlement or the Company or any other Joint Petitioner elects to withdraw as provided above, the Joint Petitioners reserve their respective rights to fully litigate this case, including but not limited to presentation of witnesses, cross-examination and legal argument through submission of Briefs.

WHEREFORE, the Joint Petitioners, by their respective counsel, respectfully request that the Commission enter an Order approving the Settlement as set forth herein, including all terms and conditions thereof.

Respectfully submitted,



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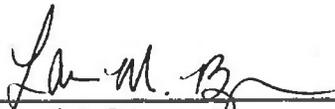
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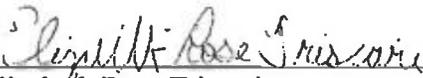
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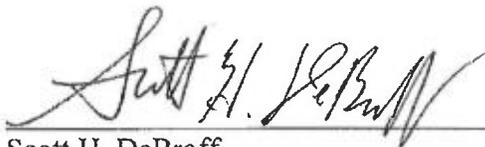
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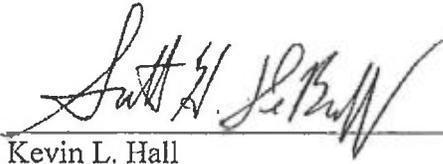
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