

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of Direct Energy Services LLC to Expand Retail Market Enhancements Docket No. P-2016-2535033

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

The Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (“CAUSE-PA”), through its counsel at the Pennsylvania Utility Law Project, hereby files this Answer in the above captioned proceeding, pursuant to the provisions of the Rules of Practice and Procedure of the Pennsylvania Public Utility Commission (“PUC” or “Commission”), 52 Pa. Code §§ 5.71-5.76, and in support, states as follows:

1. On March 18, 2016, Direct Energy Services, LLC (“Direct Energy”) filed a Petition to Restart the Retail Opt In Retail Market Enhancement, at Docket Number P-2016-2535033. Copies of the Petition were served on the Office of Consumer Advocate, the Office of Small Business Advocate, and the Bureau of Investigation and Enforcement.
2. A Secretarial Letter issued on March 24, 2016 ordered Direct Energy to additionally serve all jurisdictional Electric Distribution Companies (EDCs) and all Electric Generation Suppliers (EGSs) serving retail customers in the PECO and PPL service territories. The time period for filing Answers was suspended until the required service was made and a certificate of service was filed with the Secretary.
3. Direct Energy served those EDCs and EGSs and filed a certificate of service on March 28, 2016. On April 14, 2016, the Commission granted a request from the Retail Energy

Supply Association (RESA) for an extension to file answers. Answers to the Petition were due on May 9, 2016.

4. Direct Energy suggests that its Petition builds on the previously ordered Retail Opt In Programs. The Commission postponed those programs in a Reconsideration Order filed to PECO's Default Service Proceeding for 2013 to 2015.¹ CAUSE-PA was a party to that proceeding, but was not served with Direct Energy's petition.

5. CAUSE-PA did not become aware of Direct Energy's petition until its attorneys at the Pennsylvania Utility Law Project saw it on the PUC's CHARGE Agenda for the May 12, 2016 CHARGE conference call.

6. CAUSE-PA hereby files this Petition to Intervene and Answer to the Petition of Direct Energy as soon as is practicable after receiving indirect notice of the petition filing.

Standard for Intervention

7. Eligibility to intervene in Commission proceedings is governed by 52 Pa. Code § 5.72. This section 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).

8. 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).

¹ Petition of PECO Energy Company for Approval of its Default Service Program II, et seq., Docket Nos. P-2012-2283641, et seq., Final Order on Reconsideration entered April 4, 2013.

9. 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) and *Parents United for Better Schools v. School District of Philadelphia*, 614 A.2d 689 (Pa. Commw.1994)).

10. 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.

11. 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.

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

Answer

13. CAUSE-PA has interests in the impact restarting a Retail Opt In program as proposed by Direct Energy will have on moderate- and low-income residential customers. These interests are not adequately represented by other participants. Specifically, CAUSE-PA is concerned by the following:

- a. Direct Energy's proposal to have EDCs market EGS products to non-shopping residential customers, including CAP customers. Direct Energy's proposed product is a fixed rate generation supply contract for 24 months that would stay the same regardless of changes to the price to compare, combined with a value added product like a smart thermostat, a home energy audit, or a credit towards a roof-top solar installation. Petition ¶ 16 (vi)-(vii). CAUSE-PA is concerned about this product for the following reasons:
 - i. the price charged by through this program could be higher than the utility's price to compare and would cause CAP customers to exhaust their maximum CAP credits faster than they otherwise would and may lead to increased terminations and uncollectible expenses. In addition, other rate payers would be required to pay additional costs simply to support this program;
 - ii. the costs to participating customers of these value-added products could be onerous should they terminate their generation supply contract under the program or be subject to utility termination.
- b. Direct Energy's proposal that costs of the ROI program be recovered from ratepayers rather than participating suppliers.
- c. Direct Energy's truncated proposed procedural schedule, which does not allow for a fair and reasonable opportunity to explore the various complex issues raised by the proposal.

14. Each of the forgoing matters must be thoroughly reviewed through discovery and a

hearing to ensure that low-income utility customers are not harmed and the programs are in the public interest.

15. At least three members of CAUSE-PA are customers of PECO and at least two members of CAUSE-PA are customers of PPL, and will be directly affected by the outcome of this proceeding.² Because at least one member of CAUSE-PA has or will suffer a direct, immediate, and substantial injury to an interest as a result of this proceeding, CAUSE-PA has standing to intervene. *See Energy Cons. Council of Pa.*, 995 A.2d at 476.

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

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

² Carl Bailey, Marsha Mathis, and Jahala McLendon are customers of PECO and members of CAUSE-PA. Amanda Mabry and Altagracia Reyes are customers of PPL and members of CAUSE-PA.

WHEREFORE, CAUSE-PA respectfully request that the Public Utility Commission:

- (1) enter an order granting CAUSE-PA full status as an intervener in this proceeding with active party status; and
- (2) grant such other relief as is just and appropriate.

Respectfully submitted,
PENNSYLVANIA UTILITY LAW PROJECT
Counsel for CAUSE-PA



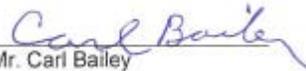
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May 13, 2016

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).

Date: May 13, 2016


Mr. Carl Bailey

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

