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May 13, 2016

**By eFiling**

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

Re: Petition of PECO Energy Company for Approval of a Default Service Program for the  
Period of June 1, 2017 through May 31, 2019, Docket No. P-2016-2534980

Dear Secretary Chiavetta:

Enclosed for eFiling please find the **Petition to Intervene of Tenant Union Representative Network and Action Alliance of Senior Citizens of Greater Philadelphia**, in the above-captioned matter. Copies of the enclosed have been served on the Petitioner, Service List and the Administrative Law Judge.

Sincerely,

*/s/ Thu Tran*

Thu B. Tran, Esquire  
Robert W. Ballenger, Esquire  
Josie B. H. Pickens, Esquire

Attorneys for TURN, et al.

Enclosure

cc: Administrative Law Judge Fordham  
Service List

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of PECO Energy Company for Approval  
of a Default Service Program for the Period of  
June 1, 2017 through May 31, 2019

Docket No. P-2016-2534980

**Petition to Intervene and Pre-Hearing Memorandum  
of Tenant Union Representative Network and  
Action Alliance of Senior Citizens of Greater Philadelphia**

The Tenant Union Representative Network (“TURN”) and Action Alliance of Senior Citizens of Greater Philadelphia (collectively “TURN et al.”), through counsel Community Legal Services, Inc., hereby file this Petition to Intervene and Pre-Hearing Memorandum 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, state as follows:

1. On March 17, 2016, PECO Energy Company (“PECO” or “the Company”) filed the Petition of PECO Energy Company for Approval of a Default Service Program for the Period of June 1, 2017 through May 31, 2019 (“DSP IV”), which was assigned this Docket No. P-2016-2534980.

2. By public notice published in the Pennsylvania Bulletin on April 9, 2016, the Commission established a deadline of April 19, 2016 for formal protests, petitions to intervene, and answers. On April 12, 2016, Administrative Law Judge Cynthia Williams Fordham issued a Prehearing Order establishing a Prehearing Conference for April 22, 2016, with a deadline of noon on April 21, 2016 for the filing of a prehearing memorandum.

3. The Rules of Practice and Procedure of the PUC provide, at 52 Pa. Code § 5.74(b)(2), that petitions to intervene shall be filed no later than the date fixed for filing protests as published in the Pennsylvania Bulletin *except for good cause shown*.

4. Two days ago, on May 11, 2015, the PUC issued the attached Secretarial Letter, formally recognizing that on the April 5, 2016, the Supreme Court of Pennsylvania denied the Commission's Petition for Allocatur of the July 14, 2015 decision of the Commonwealth Court of Pennsylvania, in the matter of the Petition of PECO Energy Company for Approval of its Default Service Plan ("DSP II"), Docket No. P-2012-2283641. The Secretarial Letter directs implementation of the remand ordered by the Commonwealth Court of Pennsylvania. PECO was directed specifically as follows:

to file with the Secretary and serve on the parties at its current Default Service Plan (DSP) and Universal Service and Energy Conservation Plan (USECP)<sup>1</sup> docket a proposed rule revision to its CAP Shopping Plan<sup>2</sup> in its current DSP III consistent with the Commonwealth Court's Order.<sup>3</sup>

5. The intervenor Tenant Union Representative Network ("TURN") is a not-for-profit advocacy organization composed of moderate and low income tenants, all either customers of or dependent on electricity service from PECO Energy. In those capacities, they have a direct, immediate, substantial and distinct interest in the impact of the currently proposed Default Service Plan ("DSP IV"), and the manner in which PECO will implement CAP Shopping

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<sup>1</sup> PECO's 2013-2015 USECP was approved at M-2012-2290911 in 2013. The Company's proposed 2016-2018 USECP was filed in October 2015 at M-2015-2507139. Comments and reply comments were filed in response to a February 2016 Tentative Order. A Final Order regarding the 2016-2018 USECP will be issued in the near future.

<sup>2</sup> The Commission's final approval of the rule revision ordered by the Court in this matter does not prejudice any Party's ability to raise the termination/cancellation issue, and to provide evidence regarding its impacts on the retail electric shopping market, in a future proceeding.

<sup>3</sup> PECO's DSP III for June 1, 2015 through May 31, 2017 was approved by Commission Order at P-2014-2409362. PECO's proposed DSP IV for June 1, 2017, through May 31, 2019 was filed March 17, 2016, at P-2016-2534980.

beginning June 1, 2017 through May 31, 2019. TURN is located at 21 South 12th Street, Suite 1100, Philadelphia, PA 19107.

6. The intervenor Action Alliance of Senior Citizens of Greater Philadelphia (“Action Alliance”) is a not-for-profit membership organization of senior citizens, many of whom are customers of PECO Energy, on whom they rely for their electricity and gas needs, including cooling and heating. In those capacities, they have a direct, immediate, substantial and distinct interest in the impact of the currently proposed Default Service Plan (“DSP IV”), and the manner in which PECO will implement CAP Shopping beginning June 1, 2017 through May 31, 2019. Action Alliance is located at 111 N. 53<sup>rd</sup> Street, Philadelphia, PA 19139.

7. The intervenors were parties in prior Commission proceedings involving PECO Energy, including, but not limited to, the following:

- a. Petition of PECO Energy Company for Approval of its Default Service Plan (DSP II), Docket No. P-2012-2283641, including appeal to Commonwealth Court and Petition for Allocatur to the Supreme Court of Pennsylvania;
- b. In the Matter of PECO Energy Company Universal Services Three-Year Plan 2013-2015 Submitted in Compliance with 52 Pa. Code § 54.74, Docket No. M-2012-2290911;
- c. Petition of PECO Energy for Approval of Its Act 129 Energy Efficiency and Conservation Plan and Expedited Approval of Its Compact Fluorescent Lamp Program, Docket No. M-2009-2093215;
- d. Petition of PECO Energy Company for Approval of its Default Service Program and Rate Mitigation Plan, Docket No. P-2008-2062739;
- e. Petition of PECO Energy Company for Approval of its Market Rate Transition Energy Efficiency Package, Docket No. P-2008-2062740;
- f. Petition of PECO Energy Company for Approval of its Market Rate Transition Phase-In Program, Docket No. P-2008-2062741; and

- g. In the Matter of PECO Energy Company Universal Services Three-Year Plan 2007-2009 Submitted in Compliance with 52 Pa. Code § 54.74, Docket No. M-00061945.

8. The intervenors have continuing interests in the impact of the PECO Default Service Program on moderate and low income residential customers, who are tenants and/or senior citizens, and the manner in which PECO will implement CAP Shopping prior to and beginning June 1, 2017 through May 31, 2019. These interests are not adequately represented by other participants.

9. Prior to the May 11, 2016 Secretarial letter, the intervenors were not aware of either the timing of any remand order from the Commonwealth Court, or the timing and manner in which PECO would be directed to implement CAP Shopping.

10. Intervenors TURN and Action Alliance are represented by:

Thu B. Tran, Esquire  
Robert W. Ballenger, Esquire  
Josie B. H. Pickens, Esquire  
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11. TURN et al. intend to present the testimony of Philip A. Bertocci, and will submit Mr. Bertocci's direct, rebuttal and surrebuttal testimony, as may be appropriate. Mr. Bertocci's contact information is as follows:

Philip A. Bertocci, Esq. of Counsel  
Community Legal Services, Inc.  
1424 Chestnut Street  
Philadelphia, PA 19102  
E-mail: [pbertocci@clsphila.org](mailto:pbertocci@clsphila.org)

12. The intervenors agree to be bound by the discovery rules and procedural schedule as established to date.

13. WHEREFORE, TURN et al. respectfully request that the Pennsylvania Public Utility Commission:

(1) find that good cause exists for late filing, given the May 11, 2016 Secretarial Letter, and grant this Petition to Intervene; and

(2) make such other order as is just and appropriate.

Respectfully submitted,

/s/ Thu Tran

Thu B. Tran, Esquire (Attorney ID: 83086)  
Robert W. Ballenger, Esquire (Attorney ID: 93434)  
Josie B. H. Pickens, Esquire (Attorney ID: 309422)

Attorneys for TURN, et al.

COMMUNITY LEGAL SERVICES, INC.  
1424 Chestnut Street  
Philadelphia, PA 19102  
(215) 981-3777

May 13, 2016

## VERIFICATION

I, Phil Lord, on behalf of Tenant Union Representative Network (TURN), 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

*/s/ Phil Lord*  
Title: Executive Director, TURN



COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE  
REFER TO OUR FILE

Docket No.  
P-2012-2283641

**May 11, 2016**

Re: Petition of PECO Energy Company for Approval of its Default Service Plan, Docket No. P-2012-2283641

To All Parties:

On April 5, 2016, the Supreme Court of Pennsylvania denied the Pennsylvania Public Utility Commission's (Commission) Petition for Allocatur of the July 14, 2015 decision of the Commonwealth Court of Pennsylvania (Court) in the above captioned matter. The purpose of this Secretarial Letter is to implement the remand ordered by the Court.

The Court's decision addressed electric shopping in PECO Energy Company's (PECO or Company) service territory by customers enrolled in the Company's Customer Assistance Program (CAP). Specifically, the Court: (1) affirmed the Commission's Order rejecting a price ceiling on Electric Generation Suppliers (EGSs) that wished to participate in the PECO CAP Shopping Program, (2) reversed the portions of the Orders which rejected a rule that would prohibit CAP participants from entering into any contract with an EGS that imposes early cancellation/termination fees, and (3) remanded the matter back to the Commission with instructions that the Commission approve a rule revision to the PECO CAP Shopping Plan that would impose such a prohibition of early cancellation/termination fees.

As to the extent of the Commission's legal authority to address the rules for shopping by CAP customers, the Commonwealth Court held that the Commission:

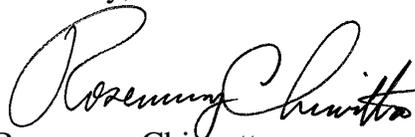
has the authority under Section 2804(9) of the Choice Act, in the interest of ensuring that universal service plans are adequately funded and cost-effective, to impose, or in this case approve, CAP rules that would limit the terms on any offer from an EGS that a customer could accept and remain eligible for CAP benefits.

*Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania, et al. v. Pa. PUC*, 1020 A.3d 1087, 1104 (2015). The Court examined the record before it and, in particular, whether the Commission's Orders were based on substantial evidence.

After doing so, the Court affirmed the Commission's Orders with respect to the Commission's rejection of a rule that would impose a price ceiling on EGSs that wish to participate in the PECO CAP Shopping Program. However, the Court reversed the portions of the Commission's Orders which rejected a rule that would prohibit CAP participants from entering into any contract with an EGS that imposes early cancellation/termination fees. The Court then remanded the matter back to the Commission with "instructions that it approve a rule revision to the PECO CAP Shopping Plan that would impose such a prohibition."

In light of the Court's Order, and the denial of allocatur by the Supreme Court, through this Secretarial Letter, the Commission hereby directs PECO to file with the Secretary and serve on the parties at its current Default Service Plan (DSP) and Universal Service and Energy Conservation Plan (USECP)<sup>4</sup> dockets a proposed rule revision to its CAP Shopping Plan<sup>5</sup> in its current DSP III consistent with the Commonwealth Court's Order.<sup>6</sup> PECO's filing should include: (1) proposed language of the rule; (2) a proposed timeline and effective date; and (3) a proposed plan to collect data upon which to base an analysis of the CAP shopping program experiences, evaluations, and recommendations. PECO's filing will be subject to public comment and final review and approval by the Commission.<sup>7</sup>

Sincerely,



Rosemary Chiavetta  
Secretary

cc: James A. Mullins, LAW

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<sup>4</sup> PECO's 2013-2015 USECP was approved at M-2012-2290911 in 2013. The Company's proposed 2016-2018 USECP was filed in October 2015 at M-2015-2507139. Comments and reply comments were filed in response to a February 2016 Tentative Order. A Final Order regarding the 2016-2018 USECP will be issued in the near future.

<sup>5</sup> The Commission's final approval of the rule revision ordered by the Court in this matter does not prejudice any Party's ability to raise the termination/cancellation issue, and to provide evidence regarding its impacts on the retail electric shopping market, in a future proceeding.

<sup>6</sup> PECO's DSP III for June 1, 2015 through May 31, 2017 was approved by Commission Order at P-2014-2409362. PECO's proposed DSP IV for June 1, 2017, through May 31, 2019 was filed March 17, 2016, at P-2016-2534980.

<sup>7</sup> As the Commonwealth Court's Order was predicated on its review of the record evidence before the Commission during PECO's DSP II proceeding, we believe the Commonwealth Court Order is limited to PECO's default service plan and does not affect other Electric Distribution Company default service plans containing CAP shopping provisions.

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of PECO Energy Company for Approval of a Default Service : Docket No. P-2016-2534980  
Program for the Period of June 1, 2017 through May 31, 2019 :

I hereby certify that I have this day served copies of the **Petition to Intervene and Pre-Hearing Memorandum of Tenant Union Representative Network and Action Alliance of Senior Citizens of Greater Philadelphia**, as set forth below in accordance with the requirements of 52 Pa. Code § 1.54:

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Respectfully submitted,

/s/ Thu Tran

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May 13, 2016