



July 3, 2019

**VIA EFILE**

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

**Re: PECO Energy Company's Pilot Plan for an Advance Payments Program and  
Petition for Temporary Waiver of Portions of the Commission's Regulations with  
Respect to that Plan**

**Docket No. P-2016-2573023**

Dear Secretary Chiavetta,

Please find attached the **Joint Application of CAUSE-PA and TURN et al. for a Stay of the  
Commission's Order Entered June 18, 2019**, in this proceeding. Copies of this filing have  
been served in accordance with the attached Certificate of Service.

Please feel free to contact me directly should you have any questions.

Sincerely,

---

Elizabeth R. Marx, Esq.  
*Counsel for CAUSE-PA*  
[pulp@palegalaid.net](mailto:pulp@palegalaid.net)  
717-710-3825

Enclosures

cc: Per Certificate of Service

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PECO Energy Company's Pilot Plan for an :  
Advance Payments Program Submitted :  
Pursuant to 52 Pa. Code §56.17 :  
:  
AND : Docket No. P-2016-2573023  
:  
PECO Energy Company's Petition for :  
Temporary Waiver of Portions of the :  
Commission's Regulations with Respect :  
to that Plan :

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day, July 3, 2019, served copies of **Joint Application of CAUSE-PA and TURN et al. for a Stay of the Commission's Order Entered June 18, 2019**, as set forth below in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

**VIA EMAIL and/or FIRST CLASS MAIL**

**Angela T. Jones**  
**Administrative Law Judge**  
Pennsylvania Public Utility Commission  
801 Market Street, Suite 4063  
Philadelphia, PA 19107

**Ward Smith, Esq.**  
Assistant General Counsel – Exelon  
2301 Market Street  
Philadelphia, PA 19101

**Gina L. Miller, Esq.**  
PA Public Utility Commission  
Bureau of Investigation and Enforcement  
400 North Street  
PO Box 3265  
Harrisburg, PA 17120

**Josie Pickens, Esq.**  
**Robert W. Ballenger, Esq.**  
**Lydia Gottesfeld, Esq.**  
Community Legal Services  
1424 Chestnut Street  
Philadelphia, PA 19102

**Lauren Burge, Esq.**  
**Harrison Breitman, Esq.**  
Office of Consumer Advocate  
555 Walnut Street, 5<sup>th</sup> Floor  
Forum Place  
Harrisburg, PA 17101-1923

**Deanne M. O'Dell, Esq.**  
**Karen O. Moury, Esq.**  
**Daniel Clearfield, Esq.**  
**Sarah C. Stoner, Esq.**  
Eckert Seamans Cherin & Mellott, LLC  
213 Market St., 8<sup>th</sup> Floor  
Harrisburg, PA 17101

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



Elizabeth R. Marx, PA ID 309014  
118 Locust Street  
Harrisburg, PA 17101  
717-710-3825  
[emarxpulp@palegalaid.net](mailto:emarxpulp@palegalaid.net)

**Dated: July 3, 2019**

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PECO Energy Company's Pilot Plan :  
For an Advance Payments Program :  
Submitted Pursuant to :  
52 Pa. Code § 56.17 :  
:  
and : Docket No. P-2016-2573023  
:  
PECO Energy Company's Petition for :  
Temporary Waiver of Portions of the :  
Commission's Regulations with :  
Respect to that Plan :

---

**JOINT APPLICATION OF  
THE COALITION FOR AFFORDABLE UTILITY SERVICES AND ENERGY  
EFFICIENCY IN PENNSYLVANIA (CAUSE-PA)**

**AND**

**TENANT UNION REPRESENTATIVE NETWORK AND ACTION ALLIANCE OF  
SENIOR CITIZENS OF GREATER PHILADELPHIA (TURN ET AL)**

**FOR A STAY OF THE COMMISSION'S ORDER ENTERED JUNE 18, 2019**

---

The Pennsylvania Utility Law Project  
*On Behalf of CAUSE-PA*  
Elizabeth R. Marx, Esq.  
Patrick M. Cicero, Esq.  
118 Locust Street  
Harrisburg, PA 17101  
717-236-9486  
[pulp@palegalaid.net](mailto:pulp@palegalaid.net)

Community Legal Services  
*On Behalf of TURN and Action Alliance*  
Josie B. H. Pickens, Esq.  
Robert W. Ballenger, Esq.  
Lydia R. Gottesfeld, Esq.  
1424 Chestnut Street  
Philadelphia, PA 19102-2505  
215-981-3700  
[jpickens@clsphila.org](mailto:jpickens@clsphila.org)  
[rballenger@clsphila.org](mailto:rballenger@clsphila.org)  
[lgottesfeld@clsphila.org](mailto:lgottesfeld@clsphila.org)

The Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA), through its counsel at the Pennsylvania Utility Law Project (PULP), and the Tenant Union Representative Network (TURN) and Action Alliance of Senior Citizens of Greater Philadelphia (Action Alliance) (collectively TURN *et al.*), through counsel at Community Legal Services, hereby requests that the Pennsylvania Public Utility Commission (Commission) grant a stay of its Order entered June 18, 2019 in this proceeding pending resolution of the Joint Petition of CAUSE-PA and TURN *et al.* for Reconsideration and Clarification (Joint Petition), which was filed concurrently with this Application. As set forth herein, CAUSE-PA and TURN *et al.* satisfies the Commission's requirements for a stay, which will avoid potential irreparable harm to residential consumers.

In support of its Application, CAUSE-PA and TURN *et al.* assert the following:

## **I. BACKGROUND**

1. Relevant background of this proceeding and the Commission's Order are set forth in Section I of the Joint Petition, which is incorporated herein by reference.

## **II. STANDARDS FOR THE COMMISSION'S ISSUANCE OF A STAY**

2. In determining whether to grant a stay, the Commission applies the criteria established by the Pennsylvania Supreme Court in Pa. PUC v. Process Gas Consumers Grp., 467 A.2d 805 (1983), which found that a stay is warranted if:

- (1) The petitioner makes a strong showing that it is likely to prevail on the merits.
- (2) The petitioner shows that without the requested relief it will suffer irreparable injury.
- (3) The issuance of a stay will not substantially harm other interested parties in the proceeding.
- (4) The issuance of a stay will not adversely affect the public interest.

Id. at 808-09. The Court held that these criteria “[require] the Court to balance the interests of all parties, and the public where applicable, and [require] the applicant to demonstrate a probability of success on the merits.” Id. at 809. The Court also held that the applicant’s requirement to demonstrate a likelihood to prevail on the merits “should not be an inflexible rule” but, instead, “must be considered and weighed relative to the other three criteria.” Id. at n.8.

3. The Commission has previously concluded that, pursuant to the guidance in Process Gas, the likelihood “to prevail on the merits” is “not applicable” to a request for a stay directed to the Commission. See Pa. PUC v. UGI Corp., 57 Pa. P.U.C. 83, 88-89 (1983).

### **III. THE REQUIREMENTS FOR ISSUANCE OF A STAY ARE MET IN THIS CASE**

#### **A. The Commission’s Decision Could Cause Irreparable Harm**

4. The Commission’s first requirement for a stay is satisfied by the fact that proceeding with the development and implementation of a Prepay Program could deprive residential consumers of their statutory rights pursuant to Chapters 14, 15, and 28. (Joint Petition at 7-8, 16-17, 20-23). Likewise, uncertainty about the appropriate income threshold for participation in the Prepay Program, and the associated lack of income verification requirements, raises a distinct potential for harm to low and moderate income consumers who may enroll in the Prepay Program. (Joint Petition at 13-16). As the record shows in this proceeding, prepay program participants are subject to more frequent terminations. (See CAUSE-PA St. 1, at 26). While the Commission has required PECO to return customers who fail to pre-pay to standard service terms, the Joint Petition explains that the Commission’s revision may still functionally deprive consumers of their full rights under Chapters 14 and 56. (Joint Petition at 20-23). Moreover, while the Order provides that PECO cannot charge any payment fees for certain transactions, the Joint Petition requests that the Commission explicitly prohibit all payment fees, including those initiated by a

third party. (Joint Petition at 19). As the record shows, prepay service participants make more frequent payments, and therefore would incur substantial costs for participation in the program if third parties were allowed to charge payment fees. (Id.) As described in further depth in the Joint Petition, and for the reasons described therein, CAUSE-PA and TURN *et al.* assert that, notwithstanding the modifications of PECO's Prepay Program in the Commission's Order, further implementation of the Prepay Program poses a distinct risk of harm to low and moderate income households which warrants application of a stay in this proceeding.

5. CAUSE-PA and TURN *et al.* are also concerned that PECO may devote significant resources into preparation and implementation of a Prepay Program before a decision is reached on the Joint Petition. Any development and/or implementation costs may be wasted, in whole or in part, depending upon the resolution of the Joint Petition. Ultimately, if PECO tries to recover the cost of the Prepay Program through base rates, this could cause additional harm to residential ratepayers who may ultimately incur such an expense.

6. As part of the Joint Petition, CAUSE-PA and TURN *et al.* request that the Commission allow for additional investigation and review of PECO's revised Prepay Program – and that the Commission include specific and enforceable requirements for PECO to engage with stakeholders throughout the redesign implementation, and review stages of its Prepay Program. (See Joint Petition at 9-13). If PECO proceeds in the development of a revised Prepay Program prior to the Commission's action on the Joint Petition, it may foreclose CAUSE-PA and TURN *et al.* from engaging with PECO through this requested process to resolve critical implementation questions, which are likewise posed throughout the Joint Petition. (See Joint Petition at 11-12).

7. In light of these distinct risks of harm, CAUSE-PA and TURN *et al.* submit that a stay of the Commission's June 18 Order is warranted.

**B. Other Interested Parties Will Not Be Harmed by a Stay**

8. The Commission's second requirement for a stay – that other interested parties will not be substantially harmed – is also satisfied. As explained in the Joint Petition, this proceeding is not time sensitive, as evidenced by the fact that it took the Commission well over a year from the date of the Administrative Law Judge's Recommended Decision to issue its Order – and the Commission itself has required significant modifications and collaboration prior to implementation. Ultimately, no parties – including PECO – will be harmed by issuing a stay of the June 18 Order to allow the Commission to consider the Joint Petition. PECO has already significantly delayed implementation of its Prepay Plan. A further delay to allow the Commission to act on the Joint Petition would provide PECO with additional certainty, and would help ensure that its Prepay Program – if allowed to proceed – is appropriately designed to protect consumers from harm.

**C. Issuance of a Stay Will Not Adversely Affect the Public Interest**

9. In determining whether to apply a stay, the final requirement is for the Commission to consider whether a stay would adversely affect the public interest. In this case, the public interest is closely tied to the interests of, and potential harm suffered by residential consumers in the absence of a stay, as described in Section III.A above.

10. Balancing the interests of all affected parties and the public interest requires the Commission to issue the stay requested by CAUSE-PA and TURN *et al.* While a stay will prevent potential harm to residential consumers, it will likewise produce no adverse impact on any interested party. As such, CAUSE-PA and TURN *et al.* assert that a stay is warranted, and should be applied.

#### IV. CONCLUSION

WHEREFORE, for the foregoing reasons, CAUSE-PA and TURN et al. respectfully request that the Commission grant this Application for a Stay pending the outcome of its Joint Petition for Reconsideration and Clarification of the Commission's Order entered June 18, 2019.

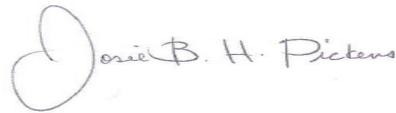
Respectfully Submitted,



---

Elizabeth R. Marx, Esq., PA ID: 309014  
Patrick M. Cicero, Esq., PA ID: 89039  
118 Locust Street  
Harrisburg, PA 17101  
Tel.: 717-236-9486  
Fax: 717-233-4088  
[pulp@palegalaid.net](mailto:pulp@palegalaid.net)

**Counsel for CAUSE-PA**



---

Josie B. H. Pickens, Esq. PA ID: 309422  
Robert W. Ballenger, Esq., PA ID: 93434  
Lydia R. Gottesfeld, Esq., PA ID: 318974  
1424 Chestnut Street  
Philadelphia, PA 19102  
Tel.: 215-981-3700  
Fax: 267-765-6481  
[jpickens@clsphila.org](mailto:jpickens@clsphila.org)  
[rballenger@clsphila.org](mailto:rballenger@clsphila.org)  
[lgottesfeld@clsphila.org](mailto:lgottesfeld@clsphila.org)

**Counsel for TURN et al.**

**Verification**

I, **Elizabeth R. Marx**, legal counsel for 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 Application 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).



---

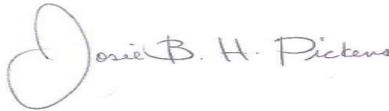
Elizabeth R. Marx, Esq.

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

Date: July 3, 2019

**Verification**

I, **Josie B. H. Pickens**, legal counsel for the Tenant Union Representative Network and Action Alliance of Senior Citizens of Greater Philadelphia (TURN *et al.*), on behalf of TURN *et al.*, hereby state that the facts contained in the foregoing Application 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).



---

Josie B. H. Pickens, Esq.

On behalf of Tenant Union Representative Network and Action Alliance of Senior Citizens of Greater Philadelphia (TURN *et al.*)

Date: July 3, 2019