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September 7, 2012

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2nd Floor  
Harrisburg, PA 17120

**VIA HAND DELIVERY**

**RE: Petition for PECO Energy Company for an Evidentiary Hearing on the Energy Efficiency Benchmarks Established for the Period June 1, 2013 through May 31, 2016; Docket No. P-2012-2320334**

Dear Secretary Chiavetta:

Please find enclosed for filing with the Pennsylvania Public Utility Commission ("PUC" or "Commission") the signed original of the Prehearing Memorandum on behalf of the Philadelphia Area Industrial Energy Users Group ("PAIEUG") in the above-referenced proceeding.

As evidenced by the attached Certificate of Service, all parties to this proceeding are being duly served with a copy of this document. Please date stamp the extra copy of this transmittal letter and Prehearing Memorandum, and kindly return them to our messenger for our filing purposes.

Sincerely,

McNEES WALLACE & NURICK LLC

By   
Charis Mineavage

Counsel to the Philadelphia Area Industrial Energy Users Group

CM/lch

Enclosures

c: Administrative Law Judge Elizabeth H. Barnes (via Hand Delivery)  
Certificate of Service

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**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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Petition of PECO Energy Company for an :  
Evidentiary Hearing on the Energy Efficiency : Docket No. P-2012-2320334  
Benchmarks Established for the Period :  
June 1, 2013 through May 31, 2016 :  
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**PREHEARING MEMORANDUM OF THE  
PHILADELPHIA AREA INDUSTRIAL ENERGY USERS GROUP**

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As requested by Administrative Law Judge ("ALJ") Elizabeth H. Barnes in the August 29, 2012, Prehearing Conference Order, the Philadelphia Area Industrial Energy Users Group ("PAIEUG") hereby submits this Prehearing Memorandum.

**I. HISTORY OF THE PROCEEDING**

On August 3, 2012, the Pennsylvania Public Utility Commission ("PUC" or "Commission") issued its Energy Efficiency and Conservation ("EE&C") Phase II Implementation Order ("I.O.") at Docket Nos. M-2012-2289411 and M-2008-2069887, tentatively adopting, among other things, Electric Distribution Company ("EDC")-specific consumption reduction targets for the period June 1, 2013, through May 31, 2016. The I.O. indicated that an EDC could contest its specific targets by filing a petition for evidentiary hearing by August 20, 2012. If the EDC did not contest the targets, the targets would become final.

On August 20, 2012, PECO Energy Company ("PECO" or "Company") submitted to the Commission a Petition for an Evidentiary Hearing challenging the energy efficiency ("EE") benchmarks established in the I.O. ("Petition"). Specifically, PECO requested an evidentiary hearing to address two matters: (1) allocation of funds for the Direct Load Control ("DLC") and

other Demand Response ("DR") Programs; and (2) the Commission's statement of allowable spending.

On August 30, 2012, PAIEUG filed a Petition to Intervene in this proceeding. A description of PAIEUG is set forth in Paragraph 5 of PAIEUG's Petition to Intervene. PAIEUG's Petition to Intervene awaits disposition by the ALJ.

## **II. ANTICIPATED ISSUES AND SUB-ISSUES**

PAIEUG is concerned with any modifications to PECO's EE&C Plan, specifically allocation of costs to Large Commercial and Industrial ("C&I") customers. PAIEUG anticipates pursuing these issues during this proceeding, and also reserves the right to raise further issues and to respond to issues raised by other parties.

## **III. PROPOSED WITNESSES**

PAIEUG is still evaluating whether it will present any witnesses in this proceeding. If PAIEUG determines that it will present such witnesses, PAIEUG will inform the ALJ and the other parties as soon as possible. PAIEUG intends to participate in this proceeding through the submission of discovery, cross-examination of other parties' witnesses, and the submission of briefs, exceptions and reply exceptions, if necessary.

## **IV. ADDITIONAL MATTERS FOR CONSIDERATION**

As per ALJ Barnes' request, PAIEUG provides direct responses to the following issues specifically raised in the Prehearing Conference Order.

- a) **Consolidation of the above-referenced docket numbers or coordination of the hearings.**

Please see the response to "b" below.

- b) **Coordination of this case with other petitions for evidentiary hearing filed at Docket Nos. (1) P-2012-2320369 (PPL); (2) P-2012-2320450 (Met-Ed);**

**(3) P-2012-2320480 (Penn Power); (4) P-2012-2320484 (West Penn); and (5) P-2012-2320468 (Penelec).**

PAIEUG submits that coordination of these cases with PPL's and FirstEnergy's Petitions for Evidentiary Hearing may not be efficient because PECO, PPL, and FirstEnergy have different EE&C Plans and have raised different issues in their Petitions.

**c) Whether the hearings should be held separately, but back-to-back.**

PAIEUG submits that hearings could be held sequentially, but overlaps of attorneys and witnesses may require some time between hearings to allow for adequate preparation.

**d) The possibility for settlement of the proceeding, subject to the Commission's approval.**

PAIEUG is willing to participate in settlement discussions with the other parties to amicably resolve the issues in this proceeding.

**e) Whether the matter should be decided upon legal briefs, or whether a hearing is necessary.**

PAIEUG submits that deciding this matter upon legal briefs may be possible depending on the scope of testimony and an opportunity for responses.

**f) If a hearing is required, a procedural schedule will be discussed including the amount of hearing time necessary to dispose of the proceeding.**

PAIEUG will cooperate with the ALJ and the parties at the Prehearing Conference to develop an appropriate procedural schedule in accordance with the Commission's regulations and any directives issued by the ALJ.

**g) Arrangements for the submission of direct testimony of witnesses in writing in advance of the hearing to the extent practicable, and for the submission in advance of hearing of written requests for information which a party contemplates asking another party to present at hearing.**

PAIEUG supports written testimony and discovery.

**h) Other matters that may aid in expediting the orderly conduct and disposition of the proceeding and the furtherance of justice, including, but not limited to, the following:**

**1. The exchange and acceptance of exhibits proposed to be offered into evidence.**

*PAIEUG submits that the Commission's rules and regulations regarding exchange and acceptance of exhibits is appropriate.*

**2. The obtaining of admissions as to, or stipulations of, facts not remaining in dispute, or the authenticity of documents which might properly shorten the hearing.**

*PAIEUG will work with the other parties in an attempt to address the aforementioned issues in a manner that would appropriately and properly shorten the hearing.*

**3. The limitation of the number of witnesses.**

*PAIEUG is willing to amicably discuss this issue with the other parties at the Prehearing Conference.*

**4. Discovery rules modifications.**

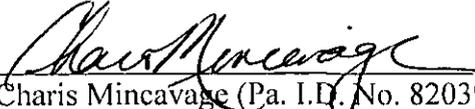
*PAIEUG does not take a position on this issue at this time.*

**V. PROPOSED DISCOVERY RULES**

PAIEUG will cooperate with the ALJ and the parties at the Prehearing Conference to develop appropriate discovery rules in accordance with the Commission's regulations and any directives issued by the ALJ.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

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Dated: September 7, 2012

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## CERTIFICATE OF SERVICE

I hereby certify that I am this day serving a true copy of the foregoing document upon the participants listed below in accordance with the requirements of 52 Pa. Code Section 1.54 (relating to service by a participant).

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Dated this 7<sup>th</sup> day of September, 2012, at Harrisburg, Pennsylvania

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