

THE PENNSYLVANIA UTILITY LAW PROJECT
118 LOCUST STREET
HARRISBURG, PA 17101-1414

HARRY S. GELLER, ESQUIRE
HGELLERPULP@PALEGALAID.NET

PHONE: (717) 236-9486, EXT. 211
FAX: (717) 233-4088

January 14, 2013

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

RE: Petition of PECO Energy Company for Approval of its Default Service Program	:	
	:	P-2012-2283641
PECO Energy Company Universal Service and Energy Conservation Plan for 2013-2015	:	
	:	M-2012-2290911

Dear Secretary Chiavetta:

Enclosed please find the Pre-Hearing Memorandum of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania ("CAUSE-PA") in the above referenced proceeding established by Secretarial Letter of January 3, 2013 and which is being filed pursuant to ALJ Fordham's January 9, 2013 Pre-Hearing Order. Electronic and hard copies have been sent to the parties consistent with the attached certificate of service.

Should you have any question or concerns about this filing please do not hesitate to contact the undersigned.

Respectfully submitted,



Harry S. Geller, Esquire
Patrick M. Cicero, Esquire
Counsel for CAUSE-PA

CC: Hon. Cynthia Williams Fordham
Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of PECO Energy Company for Approval of its Default Service Program	:	
	:	P-2012-2283641
 PECO Energy Company Universal Service and Energy Conservation Plan for 2013-2015	 :	
	:	M-2012-2290911

Certificate of Service

I hereby certify that I have this day served copies of Petition to Intervene and Pre-Hearing Memorandum of CAUSE-PA ST via Email and US Postal Service First Class Mail upon the statutory parties and counsel of record in the captioned matters as set forth below in accordance with the requirements of 52 Pa. Code § 1.54:

Elizabeth Rose Triscari, Esquire
Office of Small Business Advocate
300 North Second Street, Suite 1102
Harrisburg, PA 17101
etriscari@pa.gov

Edward G. Lanza, Esquire
Eckerts, Seamans, Cherin & Mellott, LLC
213 Market Street, 8th Floor
Harrisburg, PA 17101-1248
elanza@eckertseamans.com
***Representing Retail Energy Supply
Association***

Christy M. Appleby, Esquire
Candis A. Tunilo, Esquire
Office of Consumer Advocate
5th Floor, Forum Place
555 Walnut Street
Harrisburg, PA 17101-1923
cappleby@paoca.org
ctunilo@paoca.org

Kenneth M. Kulak, Esquire
Morgan, Lewis & Bockius LLP
1701 Market Street
Philadelphia, PA 19103-2921
kkulak@morganlewis.com
Representing PECO

Divesh Gupta, Esquire
Constellation Energy
111 Market Place
Suite 500
Baltimore, MD 21202
410-470-3158
divesh.gupta@constellation.com
Representing Constellation New Energy and Constellation Energy Group

Ward Smith, Esquire
Assistant General Counsel – Exelon
2301 Market Street
Philadelphia, PA 19101
215-841-6863
ward.smith@exeloncorp.com
Representing PECO

Scott Debroff, Esquire
Rhoads & Sinon LLP
One South Market Square, 12th Floor
P.O. Box 1146
Harrisburg, PA 17108-1146
717-237-6716
sdebroff@rhoads-sinon.com
***Representing Washington Gas Supply
Services, Inc.***

Charis Mincavage, Esquire
Adeolu A. Bakare, Esquire
McNees, Wallace & Nurick
100 Pine Street
cmincavage@mwn.com
abakare@mwn.com
Representing PAIEUG

Stephen L. Huntoon, Esquire
NextEra Energy, Inc.
801 Pennsylvania Avenue, NW
Suite 220
Washington, DC 20004
202-349-3348
shuntoon@nexteraenergy.com
***Representing NextEra Services PA
LLC & NextEra Energy Power Marketing
LLC***

Tori L. Giesler, Esquire
FirstEnergy
2800 Pottsville Pike
P.O. Box 16001
Reading, PA 19612-6001
tgiesler@firstenergycorp.com
610-921-6658
***Representing Met-Ed, Penn Power and
West Penn Power***

Jeffery J. Norton, Esquire
Carl Shultz, Esquire
Eckert, Seamans, Cherin & Mellott LLC
213 Market Street, 8th Floor
Harrisburg, PA 17101
717-237-6000 ***Representing ChoosePA Wind.com***

Thu B. Tran, Esquire
Robert W. Ballenger, Esquire
Community Legal Services, Inc.
1424 Chestnut Street
Philadelphia, PA 19102
215-981-3788
ttran@clsphila.org
Representing TURN, et al

Todd S. Stewart, Esquire
Hawke, McKeon & Sniscak LLP
100 North Tenth Street
Harrisburg, PA 17105-1778
717-236-1300
tsstewart@hmslegal.com
***Representing Dominion Retail, Inc. &
Interstate Gas Supply Inc.***

Charles E. Thomas, III, Esquire
Thomas, Long, Niesen & Kennard
212 Locust Street, Suite 500
P.O. Box 9500
Harrisburg, PA 17108-9500
cet3@thomaslonglaw.com
717-255-7611
***Representing Noble Americas Energy
Solutions LLC***

Amy M. Klodowski, Esquire
FirstEnergy Solutions Corp.
800 Cabin Hill Drive
Greensburg, PA 15601
724-838-6765
aklodow@firstenergycorp.com
Representing First Energy Solutions Corp

Brian J. Knipe, Esquire
Buchanan, Ingersoll and Rooney PC
409 North Second Street, Suite 500
Harrisburg, PA 17101
717-237-4820
brian.knipe@bipc.com
Representing First Energy Solutions Corp

Melanie J. Elatieh, Esquire
UGI Corporation
460 North Gulph Road
King of Prussia, PA 19406
610-992-3750
elatiehm@ugicorp.com
Representing UGI Energy Link

Daniel Clearfield, Esquire
Eckert Seamans Cherin & Mellott LLC
213 Market Street, 8th Floor
Harrisburg, PA 17101
717-237-7173
dclearfield@eckertseamans.com
Representing RESA

Andrew S. Tubbs, Esquire
Post & Schell
17 North Second Street, 12th Floor
Harrisburg, PA 17101-1601
717-612-6057
atubbs@postschell.com
Representing PPL EnergyPlus LLC

Amy E. Hamilton, Esquire
Noel Trask, Esquire
Exelon Business Services Co.
300 Exelon Way
Kennett Square, PA 19348
610-765-6649
amy.hamilton@exeloncorp.com
Representing ExGen

Steven Larin
Acting Executive Director
Nationalities Service Center
1216 Arch Street, 4th Floor
Philadelphia, PA 19107
info@nscphila.org

Will Gonzalez, Executive Director
CEIBA
149 W. Susquehanna Avenue
Philadelphia, PA 19122
215-634-7245
will.gonzalez@philadelphiaceiba.org

H. Gil Peach, Ph.D.
H. Gil Peach & Associates, LLC
16232 NW Oak Hills Drive
Beaverton, Oregon 97006
503-645-0716
hgipeach@scanamerica.net

Veronica Ludt, Legal Center Director
109 E. Price Street
Philadelphia, PA 19144
215-438-1390 (Legal Center)
Representing Face to Face

Laurie Baughman, Esquire
Elizabeth Marx, Esquire
3605 Vartan Way, Suite 101
Harrisburg, PA 17110
717-545-6400
lbaughman@pcadv.org
emarx@pcadv.org
***Representing Pennsylvania Coalition
Against Domestic Violence (PCADV)***

Maripat Pileggi, Esquire
Community Legal Services, Inc.
1424 Chestnut Street
Philadelphia, PA 19102
215-981-3788
mpileggi@clsphila.org
Representing ACHIEVA, et al.

Natasha Kelemen, Executive Director
Pennsylvania Immigration &
Citizenship Coalition
2100 Arch Street, 7th Floor
Philadelphia, PA 19103
215-832-0527
admin@paimmigrant.org



Harry S. Geller, Esq., PA ID: 22415
PENNSYLVANIA UTILITY LAW PROJECT
Counsel for CAUSE-PA
118 Locust Street
Harrisburg, PA 17101
Tel.: 717-236-9486
Fax: 717-233-4088
pulp@palegalaid.net

Date: January 14, 2013

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of PECO Energy Company for Approval of its Default Service Program : P-2012-2283641

PECO Energy Company Universal Service and Energy Conservation Plan for 2013-2015 : M-2012-2290911

**PREHEARING MEMORANDUM 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 submits this Prehearing Memorandum pursuant to the January 9, 2013 Prehearing Order of Administrative Law Judge Cynthia Williams Fordham

I. History of the Proceeding

In its Opinion and Order entered on October 12, 2012, in *Petition of PECO Energy Company for Approval of its Default Service Plan* at Docket No. P-2012-2283641, the Commission directed PECO Energy Company, Inc. (“PECO”) to develop a Shopping Plan that will allow its Customer Assistance Program (“CAP”) customers to purchase generation supply from electric generation suppliers (“EGSs”) by January 1, 2014.

On November 8, 2012, the Commission issued a Tentative Order (“TO”) seeking comments on specific aspects of *PECO Energy Company Universal Service and Energy Conservation Plan for 2013-2015* (“Universal Services Plan” or “USEC Plan”) at Docket M-2012-2290911. CAUSE-PA filed comments on November 28, 2012.

Upon review of the comments and reply comments filed pursuant to the November 8, 2012 TO, the Commission noted that some interested parties share the Commission's concerns and some have requested the opportunity to participate in an evidentiary proceeding before an Administrative Law Judge ("ALJ") to more fully review and analyze relevant data.

On January 3, 2013, a Secretarial Letter was issued to address procedural issues in the above captioned proceedings. In an effort to issue a Final Order on PECO's Universal Service and Energy Conservation Plan for 2013-2015 before PECO files its plan that allows CAP customers to shop for generation supply (Shopping Plan), the matter was immediately assigned to the Office of Administrative Law Judge to conduct any evidentiary hearings and briefing, and certify the record to the Commission by March 1, 2013.

On January 9, 2013, a Pre- Hearing Order was issued indicating that this matter was assigned to Administrative Law Judge Cynthia Williams Fordham, that a telephonic prehearing conference will be held on Tuesday, January 15, 2013 at 1:30 p.m. and that on or before 2 p.m. on Monday, January 14, 2013, prehearing memorandum be filed.

II. Proposed plan and schedule of discovery

CAUSE-PA is aware of the time frames established by the Commission for this proceeding and will amicably work with all parties to establish a proposed plan and schedule for expedited discovery, which, given the limited resources of low-income stakeholders is both reasonable and capable of compliance.

III. Possibility of settlement

CAUSE-PA is amenable to the possibility of settlement and available for discussions and negotiation of any issues within this proceeding which may potentially result in settlement. It is noted that PECO has proposed that a collaborative process may result in such a settlement. CAUSE-PA is prepared to engage in such a process while reserving its right to present testimony, submit briefs and otherwise participate fully in evidentiary hearings should the collaborative process not achieve settlement on any issue.

IV. Issues to be Presented

PECO must obtain Commission approval of its proposed Universal Service and Energy Conservation Plan for 2013 through 2015 (“Plan”), as the Public Utility Code and Commission regulations mandate that the Commission must ensure universal service and energy conservation policies, activities and services for residential electric customers are appropriately funded and available in each electric distribution company territory. 66 Pa.C.S. § 2408(9), 52 Pa. Code § 54.71. The term “universal service and energy conservation” includes customer assistance programs (“CAPs”), termination of service protection and policies and services that help low-income customers to reduce or manage energy consumption. 66 Pa.C.S. § 2403, 52 Pa. Code § 54.72. A CAP is an alternative collection method that provides payment assistance to low-income, payment troubled utility customers. 52 Pa. Code § 54.72, 52 Pa. Code § 69.261.

The Commission noted in its November 8, 2012 TO, that:

As detailed in the following paragraphs, PECO’s Plan partially complies with applicable provisions of the Public Utility Code, 66 Pa. C.S. §§ 101 *et seq.*, Commission regulations and Commission policy statements. The 2013-2015 Plan contains all of the components included in the definition of universal service at 66 Pa. C.S. §§ 2202 and 2803, which mandate that universal service programs be available in each large EDC and NGDC service territory and that the programs be

appropriately funded. *However, this Plan may only partially meet the submission and content obligations of the USEC Reporting Requirements at 52 Pa. Code §§ 54.74 and 62.4, the Low Income Usage Reduction Program (LIURP) regulations at 52 Pa. Code §§ 58.1-58.18 and the CAP Policy Statement at 52 Pa. Code §§ 69.261-69.267.*¹

While there may be additional issues regarding PECO's Universal Service Plan and the integration of its CAP shopping proposal into that Plan that may need to be addressed, at this point, based upon the Commission's TO and the comments of interested parties, CAUSE- PA identified the following issues that it will address in this proceeding:

1. Whether PECO's CAP Rate complies with the energy burdens and affordability provisions outlined in the Commission's CAP Policy Statement.²
2. Whether PECO's CAP program administration results in customer unaffordability, confusion, and misunderstanding.³
3. Whether PECO is accurately assigning customers to the proper CAP rate schedule, and how PECO can improve the assignment process.⁴
4. Whether PECO's CAP Program be converted to moved to a Percentage of Income Program (PIPP)⁵
5. Whether PECO's current CAP enrollment process is administratively effective and adequately informs potential participants of the consequences of CAP enrollment⁶
6. How PECO will implement CAP shopping⁷ while still maintaining customer affordability.
7. Whether PECO's practice and Plan proposal to require a Social Security Number for all household members, including those household members under the age of 18 as a CAP eligibility requirement is necessary, efficient, in conformity with or contrary to any Commission policy, CAP Guidelines, state or federal law.⁸

¹ TO at 8, emphasis added.

² TO at 9.

³ TO at 10

⁴ TO at 16-17

⁵ TO at 17.

⁶ TO at 17

⁷ TO at 20

⁸ TO at 22.

8. Whether PECO's requirement, for enrollment into CAP, of a notarized letter in the case of CAP household members who have no income is necessary to the operation of PECO's CAP; and if it imposes financial and logistical burdens on persons who lack the resources to appear before a notary public and/or to pay for notary service.⁹
9. Whether PECO's use of CAP maximum credits on a system-wide basis rather than an individual basis is unfair or unreasonable.¹⁰.
10. What are the reasons for the statistically significant number of complaint calls from customers with an evident need who had not been referred to LIURP and how should that be addressed?

V. Amount of hearing time needed

Given the time frame which the Commission has established and as a result of discussions with some of the interested parties, CAUSE-PA respectfully requests that the hearing dates be scheduled for February 14th, February 15th and February, 19, 2013.

VI. Witnesses

Cause-PA intends to sponsor the following witness

Mitchell Miller
Mitch Miller Consulting LLC
60 Geisel Road
Harrisburg, PA 17112
717-903-2196
Mitchmiller77@hotmail.com

Maripat Pileggi
Staff Attorney
Community Legal Services, Inc.
1410 W. Erie Avenue
Philadelphia, PA 19140
Phone: 215-227-4738
mpileggi@clsphila.org

⁹ TO at 22

¹⁰ TO at 24.

VII. Service on CAUSE-PA

CAUSE-PA consents to accept electronic delivery of documents on the deadlines for their filing, if followed by one (1) hard copy delivered by first class mail to its counsel of record:

Harry S. Geller, Esq.
Patrick M. Cicero, Esq.,
Pennsylvania Utility Law Project
118 Locust Street
Harrisburg, PA 17101
Tel.: 717-236-9486
Fax: 717-233-4088
pulp@palegalaid.net

VIII. Conclusion

CAUSE-PA respectfully requests that its Prehearing Memorandum be entered into the record of this proceeding.

Respectfully submitted,

PENNSYLVANIA UTILITY LAW PROJECT

Counsel for CAUSE-PA



Harry S. Geller, Esq., PA ID: 22415
Patrick M. Cicero, Esq., PA ID: 89039
118 Locust Street
Harrisburg, PA 17101
Tel.: 717-236-9486
Fax: 717-233-4088
pulp@palegalaid.net

Date: January 14, 2013