

COMMONWEALTH OF PENNSYLVANIA



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March 20, 2015

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

RE: PECO Energy Company Universal Service  
and Energy Conservation Plan for 2013-  
2015 Submitted in Compliance with 52 Pa.  
Code §§ 54.74 and 62.4  
Docket No. M-2012-2290911

Dear Secretary Chiavetta:

Enclosed please find the Office of Consumer Advocate's Statement in Support of Settlement, in the above-referenced proceeding.

Copies have been served upon all parties of record as shown on the attached Certificate of Service.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Christy M. Appleby".

Christy M. Appleby  
Assistant Consumer Advocate  
PA Attorney I.D. # 85824

Enclosures

cc: Honorable Cynthia W. Fordham, ALJ  
176096

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PECO Energy Company Universal Service :  
And Energy Conservation Plan for 2013-2015 : Docket No. M-2012-2290911  
Submitted in Compliance With 52 Pa. Code :  
§§54.74 and 62.4 :

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STATEMENT  
OF THE  
OFFICE OF CONSUMER ADVOCATE  
IN SUPPORT OF SETTLEMENT

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The Office of Consumer Advocate (OCA), one of the signatory parties to the [name of Settlement document] (Settlement), finds the terms and conditions of the Settlement to be in the public interest for the following reasons:

**I. INTRODUCTION**

On February 28, 2012, PECO Energy Company (PECO or the Company) filed its Universal Service and Energy Conservation Plan (USECP or Plan) in this docket in accordance with the Pennsylvania Public Utility Commission's (Commission regulations at 52 Pa. §§ 54.71-54.78, relating to electric universal service and energy conservation requirements and at 52 Pa. Code §§ 62.1-62.8, relating to natural gas and universal service and energy conservation requirements. On October 25, 2012, PECO filed an Amended USECP. On October 31, 2012, PECO filed its APPRISE six-year evaluation in compliance with 52 Pa. Code § 54.76.

On November 8, 2012, the Commission entered a Tentative Order at this docket and requested Comments on twelve inter-related issues. Two of the principle issues were whether PECO's current seven-tier CAP Rate program should be changed to a Percentage of Income

Payment Program (PIPP) and whether an alternative program structure would address affordability issues raised by the Commission. The Commission also sought information on the costs and benefits of such a program. Further, the Commission asked what the impact of switching to a PIPP would be on a CAP customers' ability to shop. See gen'ly PECO Energy Company Universal Service and Energy Conservation Plan for 2013-2015 Submitted in Compliance with 52 Pa. Code §§ 54.74 and 62.4, Docket No. M-2012-2290911, Tentative Order (November 8, 2012) (Tentative Order); Petition of PECO Energy Company for Approval of its Default Service program (DSP II), Docket No. P-2012-2283641, Order at Ordering ¶ 18 (October 12, 2012) (DSP II Order).

On November 28, 2012, the OCA filed its comments to the Tentative Order, and the OCA filed Reply Comments on December 10, 2012. By Secretarial Letter dated January 3, 2013, the matter was referred to the Office of Administrative Law Judge to conduct evidentiary hearings and to certify the record to the Commission by March 1, 2013. The matter was then assigned to Administrative Law Judge Cynthia Williams Fordham.

On February 4, 2013, the OCA served the Direct Testimony of Roger D. Colton, and on February 12, 2013, the OCA served Mr. Colton's Rebuttal Testimony.<sup>1</sup> In his Direct Testimony, Mr. Colton offered for consideration a type of PIPP called a "fixed credit" PIPP. Hearings were held in Philadelphia on February 15 and 19, 2013. On February 27, 2013, the OCA filed its Main Brief. The record was certified to the Commission on March 1, 2013.

The Commission issued its Order in the matter on April 4, 2013 (April 4 Order), and directed PECO to file a report on the fixed credit PIPP option on or before September 30, 2013.

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<sup>1</sup> Roger D. Colton is a principal in the firm of Fisher Sheehan & Colton, Public Finance and General Economics. Mr. Colton provides technical assistance to a variety of public utilities, state agencies and consumer organizations on rate and consumer service issues for telephone, water/sewer, natural gas and electric utilities. Mr. Colton's work focuses on low-income energy issues, and he has testified and published extensively in this area. Mr. Colton's Testimonies in the matter were entered into the record on February 19, 2013.

On September 30, 2013, PECO filed its Report on Alternative Models for Delivery of Customer Assistance Program (CAP) Benefits Submitted Pursuant to the Commission's April 4, 2013 Order. On October 15, 2013, PECO filed Supplemental Information in response to information requests from the OCA, TURN and CAUSE-PA. On October 21, 2013, the OCA filed Comments and Attachment A, Review of PECO Energy's Report on Alternative Models for the Delivery of Customer Assistance Benefits prepared by OCA witness, Roger D. Colton. Also on October 21, 2013, TURN and CAUSE-PA filed Comments. On October 31, 2013, the OCA filed Reply Comments. On November 1, 2013, PECO filed Reply Comments.

On April 25, 2014, the Commission issued a Secretarial Letter which directed the parties to provide a report by June 30, 2014 regarding whether the parties are able to reach a settlement on the matter. The Secretarial Letter also proposed that the parties utilize the Commission's Mediation Office. If no Settlement was achieved, the Commission requested a status report on July 31, 2014. The parties engaged in extensive settlement discussions with the assistance of Mediator Cynthia Lehman, and the parties requested further extensions until September 25, 2014. An additional extension was provided until October 30, 2014. The matter was re-assigned back to ALJ Fordham in November 2014. On December 5, 2014, the parties provided a status update to ALJ Fordham that settlement negotiations had resumed. Further status reports were provided to ALJ Fordham, and in March 2015, the parties reported to ALJ Fordham that a settlement in principle had been reached.

As set forth below, the terms and conditions of the Settlement represent the result of extensive negotiations between the parties, are in the public interest and should be approved.

## II. SETTLEMENT

### A. Fixed Credit Option (FCO)/CAP Design

#### 1. FCO Design

The proposed Settlement is designed to address affordability concerns that were raised in the Commission's Tentative Order and April 4 Order in this case. The Settlement provides that beginning in October 2016, PECO will implement a new design for its CAP program based upon a Fixed Credit Option (FCO) model to address affordability concerns related to PECO's current Rate Discount program. Settlement at ¶ A(1). The FCO will provide a fixed, weather-normalized credit to CAP customers based upon the customer's rolling 12-month usage and upon PECO's Price to Compare (PTC). Id. The OCA submits that any CAP program design changes must balance the affordability needs of CAP customers with the potential for increased program costs that are paid for by all other non-CAP residential customers. The FCO model presented in the Settlement achieves the goal of affordability for CAP customers, and at the same time, also balances the costs to be paid by non-CAP residential ratepayers. The FCO model will also allow for a CAP shopping platform and the portability of the CAP benefit. For the reasons set forth below, the OCA submits that the proposed FCO model is in the public interest and should be approved.

The Commission raised significant concerns in its Tentative Order and April 4 Order in this docket that PECO's current CAP Rate program does not adequately address the affordability needs of the PECO's CAP customers and asked the parties to evaluate alternative models to achieve greater affordability for CAP customers. PECO's current program is a rate discount program with six tiers of discounted rates (Tiers B, C, D, D1, E and E1) and an additional seventh tier, CAP Rate A, for those customers with "extenuating circumstances." Under the

current CAP Rate program, rate discounts are set through a formula such that, at expected consumption and income levels, the effect is to achieve an affordable percentage of income burden for 90% of customers in CAP Rates A-C and, 88% CAP population affordability in CAP Rate Tiers D-E. Pa. PUC v. PECO Energy Company- Electric Division (2010 Base Rate Proceeding), Docket No. R-2010-216575, Settlement at 7 (Order entered December 21, 2010); OCA St. 1 at 7, fn. 5. The APPRISE Evaluation found that under this approach of using expected income levels and usage, in 2011, 30% of CAP Rate participants did not achieve a home energy burden that was within the Commission's affordability guidelines. PECO Exh. LF-8 (APPRISE Evaluation) at 99.

In response to the Commission's identified concerns and the APPRISE Evaluation, OCA witness Colton offered for consideration a type of PIPP called a "fixed credit" PIPP (or FCO). Under the FCO, the CAP credit provided to the CAP participant is fixed for the customer, not the payment. The design that Mr. Colton proposed was, in part, based upon existing models such as Colorado's Fixed Credit Option program. Mr. Colton's model was modified to address Pennsylvania specific issues such as CAP customer shopping and the quarterly changes in the Price to Compare (PTC). OCA witness Colton recommended the following objectives to measure the continuing appropriateness of the CAP Rate Discount and other alternative CAP designs:

Does the program design achieve affordable service to the maximum extent practicable, with affordability measured by the PUC's percentage of income affordability guidelines;

Does the program involve an efficient use of ratepayer-supplied funding;

Does the program adequately balance the objective of achieving affordability to the maximum extent possible for program participants with the interests of non-participants in paying reasonable rates;

Does the program provide a platform for retail shopping without imposing harms on the program participant, on the ability to achieve program objectives, or on program non-participants.

OCA St. 1 at 6 (Footnotes omitted). The Commission determined in its April 4 Order that FCO merited further consideration. April 4 Order at 25.

The parties have engaged in extensive settlement discussions to achieve an FCO model which addresses both affordability and contains the costs of the program that serves approximately 140,000 low-income customers. The proposed FCO model provides CAP participants with a fixed, weather-normalized credit amount designed to achieve the following energy burdens:

Table 1: Energy Burdens

FPL	Electric Non-Heating	Electric Heating	Electric with Gas Heating
0-50%	5%	13%	13%
51-100%	6%	16%	16%
101-150%	7%	17%	17%

Settlement at ¶ A(1) (footnotes omitted). These energy burdens are consistent with the affordability burdens set forth in the Commission's CAP Policy Statement.

The FCO model targets these energy burdens to individual customer circumstances rather than to broad tiers of customers as in PECO's current program. By more closely targeting the individual customer, affordability is achieved for more customers. Under PECO's current program, roughly 30% of the CAP customers receive unaffordable bills, but under the FCO, this is reduced to 13% for Rate R customers and 9% for Rate RH customers; the continuing extent to which a small proportion of low-income customers still have burdens that exceed an affordable level is due primarily to the minimum bill requirements and maximum CAP credit, which as discussed below, are important cost containment measures. This results in an insufficient use of

funding and contributes to the higher level of unaffordability in the current program. Moreover, in PECO's current program, many customers receive a discount although their bills are already at an affordable level. The FCO utilizes the available funding more efficiently by redirecting dollars to only what is needed to achieve affordability. One consequence, however, is that some current CAP customers will see their dollar benefit reduced or eliminated. The Settlement provides for a phase-out and transition for these customers, as will be discussed below, to address the impact of this change. It is important to note, these customers will remain in CAP and continue to receive arrearage forgiveness and the other benefits of CAP.

Two important cost containment elements are also included in the Settlement. First, customers will be asked-to-pay a minimum bill of \$12 for Rate R customers, \$30 for Rate RH customers, and \$25 for Gas Heat customers as set forth in the CAP Policy Statement. Settlement at ¶ A(3); see, 52 Pa. Code § 69.265(3)(i). Customers will be asked to pay this minimum bill even if a rolling credit would otherwise create an overall credit or amount of less than these minimum amounts. Settlement at ¶ A(3). The minimum CAP payment requirement allows the CAP customer to conserve the benefit of its CAP credits for a month when the credit is actually needed. If the benefit is used in a month when it is not needed, the CAP customer may be at risk for exhausting the customer's maximum CAP credits. The minimum payment requirement also acts as both a cost control measure and a requirement that CAP customers share in the monthly responsibility of the costs of their electric service. Finally, the minimum monthly requirement establishes the habit of regular monthly bills and arrearage forgiveness for each of those months, and it prevents the situation where a customer pays nothing in one or more months because a credit exists on the bill.

Second, the Settlement includes an individual household maximum CAP credit and maintains the Company’s current practice of applying the maximum annual credits on a system-wide average. Settlement at ¶ A(1) at Step 4, ¶ A(3). Individual households will receive a maximum Annual Credit as follows:

Table 2: Maximum Annual Credits

FPL	Electric Non-Heating (Rate R)	Electric Heating (Rate RH)	Electric with Gas Heating (PECO Dual Commodity Customer)
0-50%	\$2,048	\$2,922	Same as Rate R for electric service; no maximum for gas service <sup>2</sup>
51-100%	\$1,389	\$1,881	
101-150%	\$1,241	\$1,661	

Settlement at ¶ A(1) (footnotes omitted). The individual CAP customer cannot receive a maximum CAP credit higher than those identified in Table 2, but the system-wide average maximum CAP credit of \$686.83 for Rate R customers and \$1,766.13 for Rate RH ensures that the potential cost of the program will not exceed the current potential cost of the program. Settlement at ¶ A (3). The individual and system-wide maximum CAP credits are independently calculated and applied.

The OCA submits that the proposed FCO model meets the objectives identified in the OCA’s testimony in this case. The proposed FCO will provide for affordable service that meets the guidelines set forth in the Commission’s CAP Policy Statement; will more efficiently utilize ratepayer-supplied funding to direct benefits towards those customers who are most in need; and will provide for a CAP Shopping platform that will balance the interests of CAP customers and non-CAP residential customers who pay the costs of the program.

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<sup>2</sup> This continues PECO’s current gas CAP program policy. *Id.*

## 2. Customers Who Do Not Receive An Annual Credit

One of the issues identified in this proceeding was that by redistributing the CAP funding to more precisely target the affordability assistance, some CAP customers currently receiving a discount on their bill would no longer qualify for this assistance. See, Options Report at 20, Appendix C; OCA Comments at Attachment A, Colton Review, at 18. Due to the program change, approximately 40,000 customers would no longer receive rate discounts. Settlement at ¶ A(2). In order to address the impact of this change, the Settlement provides that these customers will receive a Phase-Out Benefit of approximately \$50 per household in the first year. The Phase-Out Benefit will be provided as a monthly bill credit of \$4.17 for each month, up to a maximum of 12 months. Id. These customers will still be enrolled in CAP, still receive arrearage forgiveness, and still receive other protections and services of CAP, including prioritization for LIURP. Id.

The FCO redirects the benefit funding to more precisely provide an affordable bill to individual customers rather than to a larger “tier” of customers as in PECO’s current program. When viewed individually, it was determined that some CAP customers, especially in the income tier closest to 150% of the Federal Poverty Level (FPL), have an affordable bill pursuant to the Commission’s CAP Policy Statement. These customers did not require additional assistance to achieve an affordable bill, so these dollars could be used more efficiently to reach the 30% of CAP customers that were not receiving an affordable bill under PECO’s current program without increasing the cost of the program. There was a concern, however, with abruptly ending the bill discount benefit that customers were receiving under the existing program.

The OCA submits that the proposed minimum benefit Phase-Out will allow these CAP participants to receive a continued minimum benefit for up to 12 months and then be transitioned to zero dollar credit. The average current level of benefit for this group of customers is approximately \$8.00 and will be reduced by half before going to zero in order to mitigate the impact of the loss of the credit. These customers will remain in CAP, even at a zero dollar credit, so that they may continue to receive arrearage forgiveness for full payments and other CAP benefits such as Low Income Usage Reduction Program (LIURP) prioritization and energy efficiency education.

3. Cost Recovery

The Settlement provides for the cost recovery treatment of IT (Information Technology) transition costs to implement the FCO system. Settlement at ¶ A(4). The parties agree that the Company may request that a maximum of \$11 million to be treated as a regulatory asset and deferred for accounting and financial reporting purposes. Id. The proposal will be subject to the following conditions:

- A. That authorization for deferred accounting treatment is not an assurance that there will be future rate recovery;
- B. That PECO claim the deferred costs at the first available opportunity in a base rate case;
- C. That PECO be directed to commence amortization on a reasonable schedule beginning with the IT in-service date;
- D. That any authorization for deferred accounting be limited to the IT expense and not extend to capital costs; and
- E. That any order will not limit any party in its ability to contest rate recovery of the deferred costs.

Settlement at ¶ A(4). The OCA submits that these proposed conditions are consistent with Commission decisions regarding the treatment of a regulatory asset outside of a base rate proceeding and should be approved.

B. Arrearage Forgiveness

As the parties addressed the issue of affordability in this proceeding, an issue was raised regarding the treatment of the arrearages accumulated by CAP customers while enrolled in the CAP program, or PECO's "in-program arrearage forgiveness." The Settlement provides that PECO will present, in a separate petition or in its next base rate proceeding, an in-program arrearage forgiveness program. Settlement at ¶ B(1). The proposed in-program arrearage forgiveness program will provide a 60-month payment arrangement equal to 1/3 of the customer's Initial IPA Balance and the CAP customer will receive a reduction of \$2.00 for every dollar that the CAP customer pays towards the balance. Id.

The Company will also propose a cost-recovery mechanism in the future proceeding. Any proposed cost recovery mechanism will be limited to no more than "2/3 of the projected cumulative Initial IPA balance for the entire CAP population as of October 1, 2016." Id. The other parties, including the OCA, have explicitly reserved their right to oppose the proposed cost recovery mechanism when the Company makes its filing. PECO has reserved its right to not implement such a program without a cost recovery mechanism that is acceptable to PECO.

The OCA agrees that the issue of cost recovery for an in-program arrearage forgiveness program should be addressed in a separate proceeding or in the Company's next base rate proceeding. This was not an issue that was raised by the Commission's Tentative Order or in the testimony or Comments presented in this proceeding. The in-program arrearage forgiveness program is not directly related to the design of the proposed FCO model. The Settlement, by

providing for consideration in a separate petition proceeding or the Company's next base rate proceeding, will preserve this issue to be more fully addressed on a complete record.

C. Usage Reduction

One issue that directly impacts customer affordability is CAP customer usage levels. The Settlement provides that PECO will commit \$1 million annually in additional funds to the Low Income Usage Reduction Program in order to assist low-income customers with reducing their energy burdens and will direct \$700,000 to address *de facto* space heating issues. Settlement at ¶ C(1), (2). The Company's *de facto* space heating program will work to address Rate R customers who are heating with electricity because other fuel heating is not available where: (1) the mitigation measure is repair or replacement of a broken heater or furnace and (2) meets the necessary payback period criterion. *Id.* at C(2). The Company will actively identify CAP customers with extremely high usage and will give these customers the highest prioritization for LIURP treatment. *Id.* PECO will also advocate within its Act 129 stakeholder group to propose a \$1 million addition to its Act 129 Low Income Energy Efficiency Program (LEEP) to address customers with high usage who have incomes at or below 150% of the Federal Poverty Level. Settlement at ¶ C(3).

The OCA supports these proposed measures to increase LIURP funding and to direct LIURP funding to address the problems created by *de facto* space heating. There are some low-income customers for whom their usage is so high that CAP credits alone cannot provide an otherwise affordable bill. Many of these customers are unable to reduce their usage due to the condition of their housing stock or due to a broken or inoperable furnace that uses a fuel other than electricity. These customers rely upon alternative, more costly *de facto* space heating measures. Increasing LIURP funding, and directing those funds towards *de facto* space heating,

will work to benefit both CAP customers and the non-CAP residential customers who pay the costs of the program. Low-income customers will receive the benefit of lower energy bills, and hence greater level of affordability, and have a greater number of measures installed to address energy conservation issues. Non-low-income residential ratepayers will benefit because lower energy usage will decrease the amount of the CAP shortfall which in turn, will decrease the amount that non-CAP customers must pay for the program.

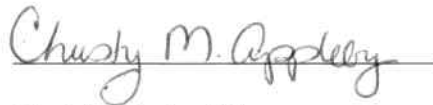
D. Collaborative

Finally, the Settlement provides that the parties will engage in a collaborative within ninety days of the approval of the Settlement to address consumer education regarding the CAP design changes; the effect of the design on CAP shopping materials; educational materials on the importance of LIURP and Act 129 measures; the suggested measures to address *de facto* space heating; the intended audience for the materials; alternative languages for the translation of education materials; and the cost recovery mechanisms for the proposed educational materials. Settlement at ¶ C(5). The OCA submits that education on these programmatic changes will be a necessary and important aspect of improving the CAP program. The OCA supports the proposal to engage in additional collaborative discussions on these important issues.

### III. CONCLUSION

The OCA submits that the terms of the Settlement are in the public interest and in the interest of both PECO's CAP participants and the non-CAP residential customers who pay the costs of the program. Based on the above reasons, the Office of Consumer Advocate submits that the proposed Settlement should be approved.

Respectfully Submitted,



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DATE: March 20, 2015  
202988

CERTIFICATE OF SERVICE

RE: PECO Energy Company's Universal Service and Energy Conservation Plan for 2013-2015 Submitted in Compliance with 52 Pa. Code §§ 54.74 and 62.4  
Docket No. M-2012-2290911

I hereby certify that I have this day served a true copy of the foregoing, the Office of Consumer Advocate's Statement in Support of Settlement, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code Section 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 20th day of March 2015.

SERVICE BY E-MAIL and FIRST CLASS MAIL


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