



April 22, 2015

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17101

**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

Dear Secretary Chiavetta:

Enclosed, please find the **Statement of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania in Support of Settlement** in the above captioned matter. Copies have been circulated pursuant to the attached Certificate of Service.

Please contact me if you have any questions about this filing.

Respectfully submitted,

Harry S. Geller
Pennsylvania Utility Law Project
*Counsel for Coalition for Affordable Utility
Services and Energy Efficiency in Pennsylvania
CAUSE-PA*

Enclosure

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

Certificate of Service

I hereby certify that I have on this day, April 22, 2015, served a true copy of the **Statement of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania in Support of Settlement** in the captioned proceeding upon the following persons in the manner listed below and in accordance with the requirements of 52 Pa. Code § 1.54.

BY E-MAIL AND US MAIL

Christy M. Appleby, Esquire
Amy E. Hirakis, Esquire
Office of Consumer Advocate
555 Walnut Street, 5th Floor, Forum Place
Harrisburg, PA 17101
cappleby@paoca.org
ahirakis@paoca.org

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

Ward Smith, Esquire
Assistant General Counsel – Exelon
2301 Market Street
Philadelphia, PA 19101
ward.smith@exeloncorp.com

Thu B. Tran, Esquire
Robert W. Ballenger, Esquire
Josie Pickens, Esquire
Community Legal Services, Inc.
1424 Chestnut Street
Philadelphia, PA 19102
rballenger@clsphila.org
ttran@clsphila.org
jpickens@clsphila.org


Charis Mincavage, Esquire
Adeolu A. Bakare, Esquire
McNees, Wallace, and Nurick
100 Pine Street
PO Box 1166
Harrisburg, PA 19102
cmincavage@mwn.com
abakare@mwn.com

David P. Zambito, Esquire
Cozen O'Conner
305 N. Front Street
Suite 400
Harrisburg, PA 17101
dzambito@cozen.com

Amy M. Klodowski, Esquire
FirstEnergy Solutions Corp.
800 Cabin Hill Drive
Greensburg, PA 15601
aklodow@firstenergycorp.com

Daniel Clearfield, Esquire
Eckert, Seamans, Cherin & Mellot, LLC
213 Market Street, 8th Floor
Harrisburg, PA 17101
dclearfield@eckertseamans.com

Respectfully Submitted,


Harry S. Geller, Esq.

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 :

**STATEMENT OF THE COALITION FOR AFFORDABLE UTILITY SERVICES
AND ENERGY EFFICIENCY IN PENNSYLVANIA IN SUPPORT OF SETTLEMENT**

The Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (“CAUSE-PA”), one of the signatory parties to the Petition for Settlement (“Joint Petition” or “Settlement”), respectfully requests that the terms and conditions of the Settlement be approved. For the reasons stated more fully below, CAUSE-PA believes that the terms and conditions of the Settlement are in the public interest.

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 (see 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 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 the affordability issues raised by the Commission and by PECO's third party evaluator, APPRISE. See PECO Energy Company Universal Service and Energy Conservation Plan for 2013-2015 Submitted in Compliance with 52 Pa. Code §§ 54.74 and 62.4, Tentative Order, Docket No. M-2012-2290911 (Nov. 8, 2012) (hereinafter Tentative Order); see also Petition of PECO Energy Company for Approval of its Default Service program (DSP II), Order, Docket No. P-2012-2283641, at Ordering ¶ 18 (Oct. 12, 2012) (hereinafter DSP II Order). As the Commission explained in its Tentative Order, "Of primary concern is whether PECO's CAP Rate complies with the energy burdens and affordability provisions outlined in the Commission's CAP Policy Statement." Tentative Order at 8-9. The Commission also sought information on the costs and benefits of an alternative program, including the impact alternative programs would have on the ability of CAP customers to shop for electric generation service from the competitive market.

CAUSE-PA, along with other interested parties, filed initial comments to the Tentative Order on November 28, 2012, and reply comments were filed 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, CAUSE-PA served the Direct Testimony of Mitchell Miller and of Maripat Pileggi, and on February 12, 2013, CAUSE-PA served Mr. Miller's Rebuttal Testimony. Mr. Miller's testimony focused on the need to achieve an affordable energy burden for low

income customers through modifications to PECO's existing CAP program. In rebuttal testimony, Mr. Miller supported the conclusions of Mr. H. Gil Peach, Ph.D., expert witness for TURN et al., "that a [Percentage of Income Program] PIP model has the ability to produce bills that are within the Commission's guidelines for each CAP participant." (See CAUSE-PA St. 1R, at 3-4). Mr. Roger Colton, who provided testimony sponsored by the Office of Consumer Advocate, offered for consideration a modified PIP called a "fixed credit" PIP, which he argued would be more cost effective than a straight PIP and still achieved a higher level of affordability than the existing program (albeit not as significant as the straight PIP). (See Colton St. 1, at 19-20.)

Hearings were held in Philadelphia on February 15 and 19, 2013. On February 27, 2013, CAUSE-PA filed its Main Brief. The record was certified to the Commission on March 1, 2013.

The Commission issued an Order on April 4, 2013 (April 4, 2013 Order), and directed PECO to file a report on the alternative CAP design models on or before September 30, 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 CAUSE-PA, TURN et al., and OCA. On October 21, 2013, CAUSE-PA, TURN et al., and the OCA filed Comments. The OCA appended its comments with analysis prepared by Mr. Colton, *Review of PECO Energy's Report on Alternative Models for the Delivery of Customer Assistance Benefits*. On October 31, 2013, CAUSE-PA, TURN et al., and the OCA filed Reply Comments and, on November 1, 2013, PECO filed Reply Comments.

On April 25, 2014, the Commission issued a Secretarial Letter directing 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 requested further extensions until September 25, 2014. An additional extension was provided until October 30, 2014. The matter was re-assigned 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, similar to that proposed by Mr. Colton through the course of the underlying proceeding, to address the fact that PECO's current program produces bills which do not satisfy the outside limits of affordability prescribed in the Commission's guidelines. Settlement at ¶ A(1). The FCO will provide a fixed, weather-normalized credit to

CAP customers based on the customer's rolling 12-month usage and upon PECO's Price to Compare (PTC). Id.

As CAUSE-PA has argued from the outset of this proceeding, and the Commission acknowledged in its Tentative Order and April 4, 2013 Order, it is critical that PECO's CAP be designed in a manner that ensures low income customers will receive a bill that does not exceed the energy burdens prescribed in the Commission's standards. The FCO model presented in the Settlement represents a negotiated compromise, which is intended to provide lower energy burdens for CAP customers than PECO's current tiered discount model. The FCO model will also allow for a CAP shopping platform and the portability of the CAP benefit. For the reasons set forth below, CAUSE-PA submits that the proposed FCO model, which the parties have agreed upon and as outlined in the settlement, is in the public interest and should be approved.

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 that, theoretically, would achieve an acceptable energy burden consistent with Commission guidelines for 90% of customers in CAP Rates A-C and 88% of customers in CAP Rates CAP 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. However, the 2011 APPRISE Evaluation found that under this approach, just 70% of CAP Rate participants achieved a home energy burden that was within the Commission's affordability guidelines. PECO Exh. LF-8 (APPRISE Evaluation) at 99.

The Commission raised significant concerns in its Tentative Order and April 4, 2013 Order in this docket that PECO's current CAP Rate program creates unaffordable bills beyond

the Commission's guidelines, and asked the parties to evaluate alternative models to achieve greater affordability for CAP customers.

After engaging in extensive negotiations, the parties arrived at the proposed FCO CAP program that, based on PECO's modeling from 2013 billing data, is projected to reach an energy burden consistent with Commission guidelines for a higher percentage of CAP customers than the existing PECO tiered rate discount design.. The FCO CAP program will provide CAP participants with a fixed, weather-normalized credit amount intended to achieve an overall energy burden within Commission guidelines for 87% R and 91% RH CAP participants. This is in contrast to the roughly 70% of CAP customers which receive an affordable bill under the existing program.

CAUSE-PA notes that, under the FCO design, there continues to be a portion of low-income customers – particularly those with very high usage and/or very low or no income -- who will continue to receive an unaffordable bill that exceeds the energy burden levels established by the Commission in its CAP Policy Statement (see below, A(4), Cost Containment). However, the complete package, while not yet achieving full energy burden compliance for all CAP participants, has been arrived at through negotiation and compromise. Together with increased funds for weatherization and energy efficiency programs targeted at the highest users with the lowest incomes, as well as a comprehensive arrearage forgiveness program assisting those negatively affected by current program design flaws CAUSE-PA believes the FCO design satisfactorily addresses the varied interests and issues in this proceeding while increasing affordability over the existing PECO program.

2. Customers Who Do Not Receive An Annual Credit

Under the terms of the proposed FCO, approximately 40,000 customers will no longer qualify for a rate discount. See Settlement at ¶ A(2); Options Report at 20, Appendix C; OCA Comments at Attachment A, Colton Review, at 18. Through the course of settlement discussions and information exchanges, the parties determined that this segment of PECO's CAP customers – which consists primarily of those in the income tier closest to 150% of the Federal Poverty Level (FPL) – receive a bill within the energy burdens consistent with Commission guidelines without application of a CAP benefit.

In light of this information, the parties agree that the dollars used to provide a benefit to those already receiving a bill compliant with energy burden policies would be used more effectively if redirected to those with high energy burdens that exceed the Commission's guidelines. To lessen the potential impact of this change on the affected households, the Settlement provides that these customers will receive a Phase-Out Benefit of approximately \$50 per household in the first year, which will be provided as a monthly bill credit of \$4.17 for each month for a maximum of 12 months. This Phase-Out Benefit is approximately 50% of the average monthly benefit currently received by these customers under PECO's existing CAP. Id. These customers will still be eligible to enroll in CAP to receive arrearage forgiveness and other protections and services of CAP, including prioritization for LIURP. Id.

CAUSE-PA asserts that the proposed Phase-Out Benefit is in the public interest and should be approved, as it is carefully designed to redirect CAP benefits to those customers with greater energy burdens while mitigating the effect on those CAP participants negatively impacted by the FCO programmatic change.

3. Cost Containment

As mentioned above, the FCO model will continue to create an unaffordable bill for some low income customers, particularly those with very high usage and/or very low or no income. The remaining unaffordability under the FCO is primarily attributable to minimum bill requirements and maximum CAP credit levels, which reflect current Commission CAP design policies. CAUSE-PA continues to be concerned about these customers.

With respect to the minimum bill mechanism, 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 also 52 Pa. Code § 69.265(3)(i). Customers will be asked to pay this required minimum bill even if a rolling credit would otherwise create an overall credit or an amount less than these minimum amounts. Settlement at ¶ A(3). For extremely low income households, particularly those with an income at or below 50% of the Federal Poverty Level (FPL), the minimum bill may be unaffordable and in excess of the energy burden maximums set out in the Commission's CAP Policy statement. However, the Settlement, as noted, has been achieved through a deference to the Commission's minimum payment policies and a negotiated compromise of a more complete package.

Like the minimum bill requirement, the maximum CAP credit mechanism also contributes to a level of continued unaffordability under the proposed FCO. 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).

As a result of the maximum CAP credit, CAP participants who have high usage through no fault of their own will receive unaffordable bills after they exhaust their allotted yearly CAP

credit. CAUSE-PA continues to be concerned about these customers, as high users often live in the poorest quality housing stock and have little to no ability to control their usage. Here too, the Settlement is a negotiated compromise of a more complete package. As explained more thoroughly below, the settlement includes several provisions focused expressly on usage reduction for low income customers. These provisions are intended to address very high usage and assist customers to not exceed the available CAP credits. They are included within the settlement to attempt to mitigate the negative effect of maximum CAP credits on customers who are unable on their own to afford the energy efficiency retrofits necessary to reduce usage.

CAUSE-PA submits that the proposed FCO model – together with the compromised terms of the settlement – is intended to address the current lack of compliance with maximum energy burdens inherent in PECO’s existing CAP design and, thus, is in the public interest and should be approved.

4. 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 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). CAUSE-PA 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.

5. External Review of FCO Program

An appropriately timed, expert review of the FCO program is critical to the program's success, as it provides data-driven analysis that enables the Company – together with the Commission, parties and stakeholders – to make necessary adjustments to ensure that the program projections and modeling of affordability are realized. To ensure an appropriate level of data is collected to enable a full and meaningful review of the FCO, the Settlement provides that PECO will seek a one-year extension of its currently scheduled six-year evaluation. This will provide the external evaluators with two full years of data with which to analyze the success of the FCO. CAUSE-PA recognizes the importance of complete data to arrive at meaningful analysis and asserts that regular and robust review of and adjustment to the FCO program is critical to ensure that it meets the projected affordability targets. As such, CAUSE-PA asserts that this provision will ultimately serve the public interest to have a thorough and data-driven evaluation of the FCO program.

B. Arrearage Forgiveness

The central issue in this proceeding which the Commission sought to address is the fact that the existing PECO CAP design has failed to produce affordable bills for low income customers. As a direct result of the existing program's unaffordability, CAP customers have

accumulated significant arrearages while enrolled in the CAP program. Through the course of settlement negotiations, parties recognized that allowing arrears accrued under the existing, unaffordable program design to follow customers into a new program could undermine the affordability level produced by the FCO because it would add an arrearage surcharge to the bill, pushing the customer over the Commission's affordability standards.

The terms in the Settlement enables the resolution of the arrearage issue in a manner that preserves the decreased energy burdens projected to result from the FCO. 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 parties reserved the right to oppose the proposed cost recovery mechanism when PECO makes its filing and, in turn, PECO reserved its right to not implement such a program without an acceptable cost recovery mechanism.

In accord with the Settlement terms, PECO presented and supports such a program in its recent rate filing. *See Pa. PUC v. PECO*, Statement No. 7, Scott A. Neumann, Docket R-2015-2468981 (March 27, 2015).

CAUSE-PA asserts that adoption of an in-program arrearage forgiveness program is a critical piece to the overall structure of the Settlement, as it ensures that the progress made toward affordability through adoption of an FCO is not thwarted by vestiges of unaffordable bills

produced by the existing PECO CAP tiered discount program design. Each of the parties recognizes the need for transitional arrearage forgiveness of in-CAP arrears resulting from PECO's tiered discount CAP design. The parameters of such a program are included in the Settlement. CAUSE-PA therefore asserts that the agreed upon terms represent a reasonable compromise and should be adopted without modification as a required component of PECO's implementation of its FCO design. CAUSE-PA looks forward to working with the other parties in the rate proceeding to ensure the successful adoption of this critical program feature.

C. Usage Reduction

As explained above, high usage is a primary factor for the residual unaffordability that will likely persist under an FCO. In an attempt to assist affected customers, the Settlement provides that PECO will commit \$1 million annually in additional funds to the Low Income Usage Reduction Program to assist low-income customers to reduce their energy burden. The Settlement requires PECO – both before and after implementation of the FCO -- to identify, target, and prioritize customers with very high usage who will be most in danger of exhausting their FCO CAP credits before the end of the program year.

The Settlement commits \$700,000 annually for PECO's *de facto* heating program in addition to the increased LIURP funds. Settlement at ¶ C(1), (2). The Company's *de facto* heating program will address Rate R customers who are heating with electricity because the central heating is not available where the mitigation measure (1) is repair or replacement of a broken heater or furnace and (2) meets the necessary payback period criterion. *Id.* at C(2). As with general LIURP measures, the Company will actively identify CAP customers with extremely high usage and will give these customers the highest prioritization for LIURP treatment. *Id.*

Finally, in addition to the LIURP and *de facto* heating program commitments, the Settlement provides that PECO will 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).

CAUSE-PA strongly supports these proposed measures to increase funding for usage reduction programs and to specifically identify, target, and prioritize CAP customers with very high usage. These customers are most at risk of receiving an unaffordable bill under the proposed FCO. Many of these customers are unable to reduce their usage due to the condition of their housing stock or as a result of a broken or inoperable furnace that uses a deliverable fuel or natural gas, and many of these customers rely upon alternative, more costly *de facto* space heating measures. Increasing LIURP and Act 129 LEEP funding and providing additional funds explicitly designated to address *de facto* space heating will work to benefit both CAP customers and non-CAP residential customers who pay the costs of the program. As explained above, the provisions in this settlement were carefully negotiated to balance the varied interests at stake, and represent a reasonable compromise by the parties. Indeed, increased funding for usage reduction will benefit low income customers by helping to ensure that high users do not exceed the maximum annual CAP credits, and at the same time will benefit other residential ratepayers who will not shoulder the increased cost of raising the maximum credit designations to otherwise accommodate low income high users. Thus, CAUSE-PA asserts that these efficiency funding enhancements are in the best interest of the public and asks the Commission to approve the Settlement.

D. Collaborative

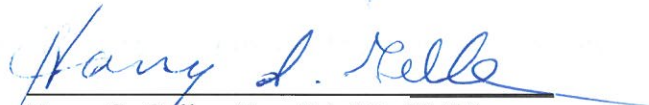
Finally, the Settlement provides that the parties will engage in a collaborative within ninety days of the approval of the Settlement to address consumer education regarding the CAP design changes; the effect of the design on CAP shopping materials; educational materials on the importance of LIURP and 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). CAUSE-PA submits that education on these programmatic changes is a necessary and important aspect of improving the CAP program. CAUSE-PA therefore supports the proposal to engage in additional collaborative discussions on these important issues.

III. CONCLUSION

CAUSE-PA submits that the Settlement is in the public interest and, based on the above rationale, requests that the Commission approve the Settlement proposal.

Respectfully Submitted,

PENNSYLVANIA UTILITY LAW PROJECT



Harry S. Geller, Esq. PA ID: 22415
118 Locust Street
Harrisburg, PA 17101
(717) 236-9486
pulp@palegalaid.net

*For: Coalition for Affordable Utility Services and Energy
Efficiency in Pennsylvania (CAUSE-PA)*

Date: April 22, 2015