**COMMONWEALTH OF PENNSYLVANIA**

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March 16, 2016

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 2016-2018 Submitted in Compliance with 52 Pa. Code §§ 54.74 and 62.4
Docket No. M-2015-2507139

Dear Secretary Chiavetta:

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

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

Respectfully Submitted,

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

Enclosures
cc: Joseph Magee, Bureau of Consumer Services (e-mail)
Sarah Dewey, Bureau of Consumer Services (e-mail)
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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

| | | |
|---|---|---|
| PECO Energy Company | : | |
| Universal Service and Energy Conservation | : | Docket No. M-2015-2507139 |
| Plan for 2016-2018 Submitted in Compliance | : | |
| With 52 Pa. Code §§ 54.74 and 62.4 | : | |

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COMMENTS
OF THE
OFFICE OF CONSUMER ADVOCATE

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The Office of Consumer Advocate (OCA) files these Comments in response to the Pennsylvania Public Utility Commission's (Commission) Tentative Order issued February 25, 2016, in the above-captioned proceeding.[1]

# I. INTRODUCTION

## A. Overview

On October 2, 2015, PECO Energy Company (PECO or Company) filed the above-captioned Universal Service and Energy Conservation Plan (USECP or Plan) for 2016 through 2018, in accordance with the Commission's regulations at 52 Pa. Code §§ 54.71-54.78, relating to electric universal service and energy conservation requirements, and 52 Pa. Code §§ 62.1-62.8, relating to natural gas universal service and energy conservation requirements. PECO's proposed 2016-2018 Plan includes provisions for both electric and natural gas service. On

[1] The OCA was assisted in the preparation of these Comments by its consultant, Roger D. Colton. Roger 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 customer 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.

February 25, 2016, the Commission entered its Tentative Order on the Plan which requested clarifications from the Company and comments from interested parties.

PECO's Plan contains four components: (1) the CAP Rate program and the new Fixed Credit Option (FCO) program for discounted rates to low-income residential customers; (2) the Low Income Usage Reduction Program (LIURP) that provides weatherization and usage reduction services to help low-income customers reduce their utility bills; (3) the Customer Assistance and Referral Evaluation Services (CARES) program, which provides referral services for low-income, special needs customers; and (4) the Hardship Fund, the Matching Energy Assistance Fund (MEAF), which provides grants to customers with incomes up to 175% of the Federal Poverty Level (FPL) who have their utility service terminated or are threatened with termination. Tentative Order at 8.

The Tentative Order requested Comments and clarification from the Company on the following issues:

> 1. Confirm whether the seasonal distribution of CAP credits (Table 5) do not total 100% annually due to a rounding or other issue or provide necessary corrections.
>
> 2. Explain a customer's payment responsibility if the customer cancels service while receiving InPA Forgiveness.
>
> 3. Explain how it will educate consumers about the upcoming changes to its CAP and, on an ongoing basis, the benefits and responsibilities of the program.
>
> 4. Clarify what situations would require that a customer pay for forgiven arrears once removed from CAP for fraud, theft of service, or other misappropriations of service.
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> 5. Explain reenrollment requirements for customers removed from CAP.
>
> 6. Explain restoration requirements for CAP or CAP-eligible customers.

7. Update the LIURP budget to reflect the $700,000 for de facto heating pilot and estimate its potential de facto heating jobs for the electric and gas categories in 2017 and 2018.

8. Explain its thresholds for providing LIURP treatment or disqualifying a home due to safety concerns and identify any specific health and safety spending guidelines or minor repair allowance limits.

9. Clarify if it is requiring every contractor and subcontractor performing LIURP to have all of the certifications listed and provide more details regarding the requirements for LIURP contractors and subcontractors.

10. Address concerns raised regarding both PECO's use of only one LIURP contractor and the accuracy of LIURP data reported to BCS and PSU.

11. Update the LIURP budget with the additional $1 million funding for 2017 and 2018 and show the appropriation of funds between electric and gas components.

12. Revise the LIURP job estimates for electric and gas customers, including those that will result from the additional funding in 2017 and 2018.

13. Revise its needs assessment with updated information for York County.

14. Explain the projected fluctuations in its 2016-2018 CAP credit costs.

15. Provide a cost and usage breakdown of its estimated MEAF budget.

16. Explain how it recovers universal service outreach costs.

17. Provide additional information about its universal service organizational structure.

Tentative Order at 33-35.

The Tentative Order also invited interested parties to comment on any provision of the Company's Proposed Plan. Id. at 35. The OCA addresses the following issues in its Comments: (1) CAP enrollment outreach; (2) consumer education for the FCO program; (3) pilot reporting requirements; and (4) account collection costs.

B. Background

Since PECO's last 2013-2015 Plan, the Company has significantly changed its CAP design from a CAP Rate program to a Fixed Credit Option (FCO) Percentage of Income Payment Program (PIP). On November 8, 2012, the Commission entered a Tentative Order at Docket No. M-2012-2290911 regarding PECO's Universal Service and Energy Conservation Plan for 2013-2015. Two of the principle issues raised in the Commission's November 8 Tentative Order were whether PECO's current seven-tier CAP Rate program should be changed to a PIP 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 the program designs. 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-2012-229011, Tentative Order (November 8, 2012) (November 8 Tentative Order). The OCA, among other parties including Tenant Union Representative Network (TURN) and Action Alliance of Senior Citizens of Greater Philadelphia (Action Alliance) (collectively TURN *et al.*) and the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA), filed Comments and Reply Comments to the Commission's November 8 Tentative Order, and the matter was subsequently referred to the Office of Administrative Law Judge. The matter was further 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. In his Direct Testimony, Mr. Colton offered for consideration a type of PIP called a "fixed credit" PIP. Hearings were held on February 15 and February 19, 2013. On February 27, 2013, the parties filed Main Briefs. The record was then certified to the Commission on March 1, 2013.

On April 4, 2013, the Commission issued a Final Order regarding PECO's 2013-2015 USECP and required changes to address continuing affordability concerns. See PECO Energy Company USECP for 2013-2015, Docket No. M-2012-2290911 (April 4, 2013) (April 4 Order). The Commission's April 4 Order directed PECO to conduct a study of the Fixed Credit Option (FCO) and other possible CAP design alternatives. If the Commission decided to require a fixed credit PIP, the Company would be required to submit the new design in its February 2, 2015 triennial Plan for 2016-2018. April 4 Order at 25.

On September 30, 2013, pursuant to the Commission's April 4 Order, PECO filed a report on the proposed FCO PIP. On October 15, 2013, in response to questions about the report that were raised by OCA, CAUSE-PA and TURN *et al.*, PECO filed Supplemental Information. 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 Colton. Also on October 21, 2013, CAUSE-PA and TURN *et al.* also filed Comments. On October 31, 2014, 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 were able to reach a settlement on the matter. If no Settlement was achieved, the Commission requested a status report by July 31, 2014. The parties engaged in extensive settlement discussions with the assistance of Mediator Cynthia Lehman. The parties requested multiple further extensions until

March 2015 when the parties reported to ALJ Fordham that a settlement in principle had been reached.

On March 20, 2015, the parties filed a Joint Petition for Settlement (CAP Settlement). The CAP Settlement provided for a change to the CAP program design from a CAP Rate discount program to a Fixed Credit Option (FCO) PIP program by October 2016.[2] The Settlement referred the resolution of an issue related to cost recovery for an in-program arrearage forgiveness (IPAF) program to a future base rate proceeding.[3] On June 11, 2015, the ALJ issued a Recommended Decision approving the CAP Settlement. On July 8, 2015, the Commission issued its Order approving the CAP Settlement and the re-design of the CAP program.

On March 27, 2015, PECO filed for a distribution base rate increase. Pa. PUC v. PECO Energy Company, Docket No. R-2015-2468981. As part of the distribution base rate proceeding, PECO filed for cost recovery for the CAP Settlement's proposed IPAF program. On September 10, 2015, the parties to the base rate proceeding filed a Joint Petition for Settlement which

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[2] As described in the Tentative Order:

> PECO's FCO PIP combines percentage of income with a rate discount. Participants pay the difference between their monthly electric/gas bill and their CAP credits. A customer's annual credit amount is the difference between the annual energy costs for the residence and the household's allowable energy burden. The annual cost of energy for a residence is based on the undiscounted and weather-adjusted energy costs of the prior 12-month period. PECO recalculates the CAP customer's annual energy costs every month…
>
> If the estimated cost of energy is greater than the household's allowable energy burden, the household will receive CAP credits for the difference. Annual CAP credits are limited based on poverty level and energy usage.

Tentative Order at 10-11 (footnotes and tables omitted).

[3] The IPAF provides an arrearage forgiveness program for arrearages that the low-income CAP customer developed since enrolling in CAP. As the Plan explains, PECO will provide a special five year arrangement that will allow the CAP customer to pay 1/3 of the arrearage amount and to have the remaining 2/3 forgiven. See, PECO Plan at 9-10; PECO Plan at Attachment C, 36. The remaining 2/3 of the arrearage are matched by ratepayers and the Company as addressed in the Settlement of the Company's 2015 base rate proceeding.

resolved among other issues, the cost recovery for the IPAF program.[4] On December 17, 2015, the Commission approved the Settlement for the base rate proceeding.

## II. COMMENTS

### A. CAP Enrollment Outreach

In its Plan, PECO proposes to maintain a CAP enrollment of 140,000 customers in 2016. Plan at 11. In October 2016, the Company will transition to its new Fixed Credit Option program. Under the CAP Rate design, PECO automatically enrolls Low Income Home Energy Assistance Program (LIHEAP) recipients in its CAP Rate program, but due to the need for accurate income information under the new FCO program, PECO states that it will no longer automatically be able to enroll LIHEAP recipients in CAP. Tentative Order at 9; Plan at 7. Also under the new FCO program design, PECO estimates that approximately 40,000 households that currently receive rate discounts will no longer receive rate discounts. Tentative Order at 13.[5] PECO's Plan states that:

> [w]e are uncertain of the impact the new CAP FCO will have on enrollment and therefore are unable to project enrollment levels for that program. We would like to note however that CAP enrollment numbers may be reduced significantly during 2017 and 2018 when customers are asked to recertify. We anticipate that many customers who received discounted rates in PECO's current tiered program may not receive a credit under the new FCO program. PECO cannot project whether those customers will conclude that it is worthwhile for them to remain in CAP if that happens.

Plan at 11. PECO's Plan, therefore, estimates that CAP enrollments may be impacted by the transition to the FCO program, but PECO does not specifically quantify the impact to enrollment.

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4 Parties to the base rate proceeding included the OCA, CAUSE-PA and TURN *et al.*

5 After PECO's October 2016 FCO implementation, PECO will offer these customers a 1-year Phase-Out Benefit of $50 per household, or approximately $4.17 per month. Tentative Order at 13.

In order to address the impact to LIHEAP recipients, PECO states that the Company will use information regarding the receipt of a LIHEAP grant to target customers to receive a CAP application and a letter explaining the benefits of CAP. Plan at 11. The OCA agrees that the transition to the new FCO program design may impact enrollment levels, and the OCA supports the Company's proposed proactive outreach to future LIHEAP recipients. PECO's outreach proposal, however, does not address whether these outreach efforts would include customers who received a LIHEAP grant in prior years or prior LIHEAP recipients who failed to recertify during the 2016-2018 Plan period. PECO's proposal also does not address outreach to FCO participants who may no longer receive a discount but may receive benefits from the arrearage forgiveness components (either through the traditional pre-program arrearage forgiveness or the new IPAF program) or prioritization for LIURP services.

PECO's proposed outreach plan only addresses prospective LIHEAP recipient CAP enrollment. The OCA submits that PECO should develop an outreach education plan that also addresses: (1) how to maintain the customers who were previously automatically enrolled in the CAP program but will now need to take a specific action in order to continue to be enrolled in CAP; and (2) how to potentially maintain CAP customers who would benefit from the arrearage forgiveness component of CAP or the LIURP prioritization.

B. Consumer Education For The FCO Program

With the October 2016 change to a Fixed Credit Option (FCO) design, the Tentative Order requests that the Company "thoroughly explain to CAP customers how its program will change and how it can impact monthly CAP bills." Tentative Order at 16. As the Commission correctly identifies, clear consumer education will be crucial to a successful transition from the CAP Rate program to the FCO credit program. Id. In addition, the OCA recommends that education on the change to the CAP design should also specifically be provided to community based organizations that directly assist low-income customers, including but not limited to, participants in PECO's Universal Services Advisory Committee and those identified in Attachment A of the Plan.

C. Pilot Reporting Requirements

As a result of the Settlement regarding PECO's 2013-2015 Plan, PECO will increase its LIURP budget by $700,000 to help *de facto* heating customers.[6] Tentative Order at 19-20. The Commission requests that the Company estimate the number of potential jobs to be performed for the pilot including "other pilot details consistent with existing LIURP annual reporting requirements." Id. at 20. The OCA submits that PECO should also report its estimates of the CAP credits avoided through the *de facto* heating program.

One purpose of the de facto heating program is to address situations where inoperable furnaces or unaffordable fuel costs impose increased CAP costs on PECO ratepayers because of the use of portable electric space heaters for primary space heating needs. Mitigation of these issues should generate both LIURP-based avoided costs, but also should result in a substantive reduction in the need for CAP credits due to *de facto* heating customers. The OCA submits that PECO should also track the benefits, through avoided CAP credits, provided to ratepayers for the *de facto* heating program.

D. Account Collection Costs

In its Plan, PECO proposes that customers who are removed from CAP for fraud, theft of service, or "other misappropriations of service" would be removed from the program for one year and may be liable "for some or all of […] account arrearages (forgiven or not forgiven), pre-

[6] *De facto* heating households typically use electricity for space heating because their primary heating source has been terminated, is otherwise unaffordable, or is inoperable.

program arrearages, [InPA Forgiveness], and related account collections." Plan at 11; see Tentative Order at 16-17 (emphasis added). The OCA submits, however, that PECO's proposal to collect "related account collections" is not consistent with the language in its tariff regarding late fees and collection costs.

Section 17.4 of the Company's tariff appears to state that account collection costs will only be added to commercial and industrial accounts and does not include residential customer accounts. The tariff states:

> **Late Fees and Collection Costs.** If payment is made at a Company office or authorized payment agency after the due date shown on the bill, a late fee will be added to the unpaid balance until the entire bill is paid. If payment is made by mail, the late fee will be added if the payment is received by the Company more than five days after the due date shown on the bill. For Rates R, R-H, RS-2, POL and GS this late fee will be 1-1/2% per month, for all other rates the late fee will be 2% per month. If the Company files suit to collect a delinquent balance on an account (whether active or inactive) or to ensure payment of current bills, the customer will be required to pay the Company's out of pocket court costs (including, filing, service, and witness fees) as ordered by the court and such costs will be added to commercial and industrial accounts.

PECO Energy Company, Tariff Electric Pa. P.U.C. No. 5, Original Pages No. 25, 27, Sections 17.4, 18.5 (emphasis added).

The tariff only provides for fraud or theft of service costs that are that related to the reconnection charge. The tariff states that the "reconnection charge will also include allocated overheads, all investigative costs, and administrative costs as determined by the Company." PECO Energy Company, Tariff Electric Pa. P.U.C. No. 5, Original Page No. 27, Section 18.7. Specific reconnection fees for theft and fraud are identified in the tariff, i.e. $350 for reconnection at the meter. Id. The tariff does not identify any other category of "account collection costs."

The OCA submits that any costs imposed for fraud or theft of service for residential customers should be limited to the costs identified in the tariff. The Company's tariff does not provide for "related account collection" costs from residential customers, and therefore, the "related account collection" language should be removed from the Company's Plan.

## III. CONCLUSION

WHEREFORE, the Office of Consumer Advocate appreciates the opportunity to provide Comments to this Tentative Order. The OCA respectfully requests that the Company's Plan be amended in accordance with the Tentative Order and the above Comments.

Respectfully Submitted,

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DATE: March 16, 2016
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# CERTIFICATE OF SERVICE

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| PECO Energy Company<br>Universal Service and Energy Conservation Plan<br>For 2016-2018 Submitted in Compliance with<br>Pa. Code §§ 54.74 and 62.4 | :<br>:<br>:<br>: | Docket No. M-2015-2507139 |

I hereby certify that I have this day served a true copy of the foregoing, the Office of Consumer Advocate's Comments, 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 16th day of March 2016.

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