

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of PECO Energy Company for	:	
Approval of its Default Service Program	:	
For the Period from June 1, 2017 through	:	P-2016-2534980
May 31, 2019	:	

**STATEMENT "E"
STATEMENT IN SUPPORT OF
THE PHILADELPHIA AREA INDUSTRIAL ENERGY USERS GROUP ("PAIEUG")**

The Philadelphia Area Industrial Energy Users Group ("PAIEUG"), by and through its counsel, submit that the Joint Petition for Partial Settlement ("Partial Settlement") filed in the above-captioned proceeding is in the public interest and represents a fair, just and reasonable partial resolution of PECO Energy Company's ("PECO" or "Company") proposed Default Service Program ("DSP"). As a result of settlement discussions, the Company; PAIEUG; the Office of Consumer Advocate ("OCA"); the Pennsylvania Public Utility Commission's ("PUC" or "Commission") Bureau of Investigation and Enforcement ("I&E"); the Office of Small Business Advocate ("OSBA"); and the Retail Energy Supply Association ("RESA") (collectively, "Parties") have agreed upon the terms embodied in the foregoing Partial Settlement.¹ PAIEUG offers this Statement in Support ("Statement") to further demonstrate that the Partial Settlement is in the public interest and should be approved.

¹ Noble Americas Energy Solutions, LLC ("Noble") is not a party to and opposes this Partial Settlement. The Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania ("CAUSE-PA"), the Tenant Union Representative Network and Action Alliance of Senior Citizens of Greater Philadelphia (collectively, "TURN"), and Direct Energy do not oppose this Partial Settlement.

I. BACKGROUND

1. On March 17, 2016, the Company filed with the PUC the aforementioned DSP. This document included the Company's proposed terms and conditions of default service for the period June 1, 2017 through May 31, 2021.

2. On April 8, 2016, PAIEUG filed a Petition to Intervene and Answer regarding PECO's proposed DSP. PAIEUG is an *ad hoc* association of energy-intensive industrial customers receiving electric service in PECO's service territory. PAIEUG members purchase service from the Company primarily under Rate Schedule HT. PAIEUG members collectively consume large amounts of electricity annually in their manufacturing and operational processes, and electricity costs comprise a significant portion of their production expenditures. As some of PECO's largest customers whose manufacturing processes require significant amounts of electricity, any proposed modifications to the Company's DSP could significantly impact PAIEUG's production costs.

3. On April 22, 2016, the Parties conducted a Prehearing Conference before presiding Administrative Law Judge ("ALJ") Cynthia W. Fordham. The Prehearing Conference established a litigation schedule for the proceeding.

4. On May 27, 2016, ALJ Fordham issued a Prehearing Order #2 setting forth some of the requirements for participating in a formal default service proceeding before the Commission.

5. On June 3, 2016, various parties to this proceeding submitted Direct Testimony. PAIEUG filed a letter indicating that it did not submit Direct Testimony.

6. On June 24, 2016, various parties to this proceeding submitted Rebuttal Testimony. PAIEUG filed a letter indicating that it did not submit Rebuttal Testimony.

7. On July 8, 2016, various parties to this proceeding submitted Surrebuttal Testimony. PAIEUG filed a letter indicating that it did not submit Surrebuttal Testimony.

8. During the evidentiary hearing on July 14, 2016, the Parties informed ALJ Fordham that they had reached a partial settlement. The parties agreed to a revised DSP consistent with PECO's DSP IV Petition, as modified by the terms of the Partial Settlement, subject to resolution of PECO's plan to enable CAP customers to shop for electric generation supply.

9. After considering the Partial Settlement, PAIEUG submits this Statement in support of the Partial Settlement.

II. STATEMENT IN SUPPORT

10. The Commission has a strong policy favoring settlements. As set forth in the Commission's regulations, "[t]he Commission encourages parties to seek negotiated settlements of contested proceedings in lieu of incurring the time, expense and uncertainty of litigation."² Consistent with the Commission's policy, the Parties engaged in several negotiations to resolve the issues raised by the various parties. These ongoing discussions produced a Partial Settlement in these proceedings.

11. The Parties agree that approval of the proposed Partial Settlement is in the best interest of everyone involved in PECO's DSP proceeding.

12. The Partial Settlement serves the public interest for the following reasons:

- a. Resolving claims against PECO's DSP through settlement is more cost effective than pursuing all of these issues further through litigation.
- b. Uncertainties regarding further expenses associated with possible appeals from the Final Order of the Commission are avoided as a result of the Partial Settlement.
- c. The Partial Settlement results in terms and provisions that present a just and reasonable resolution of the large majority of issues set forth in PECO's proposed DSP.
- d. The Partial Settlement reflects compromises on all sides presented without prejudice to any position a Party may have advanced so far in these

² 52 Pa. Code § 69.391; *see also* 52 Pa. Code § 5.231.

proceedings. Similarly, the Partial Settlement is presented without prejudice to any position a party may advance in future proceedings involving PECO.

13. Furthermore, the Partial Settlement satisfies the specific concerns of PAIEUG:
 - a. The Partial Settlement provides for a four-year DSP program term, which reduces administrative and monetary costs associated with litigation of PECO's DSPs, which are currently for a two-year term;³ and
 - b. The Partial Settlement indicates that PECO will provide notice to customers and their suppliers of any filings at the Federal Energy Regulatory Commission ("FERC") which will impact NITS charges, as well as any changes to currently-effective NITS rates for PECO. This information will be posted to the Company's SUCCESS webpage and on its procurement website, www.pecoprocurement.com.⁴ This provision of the settlement ensures that NITS costs continue to be appropriately collected from shopping customers by their Electric Generation Suppliers ("EGSs"), while also providing information regarding NITS to EGSs in order to allow them to better serve such customers.

14. PAIEUG fully supports the Partial Settlement because it is in the public interest; however, in the event the ALJ or the Commission rejects the Partial Settlement, PAIEUG will resume its litigation position.

15. As noted above, PAIEUG avers that the proposed Partial Settlement serves the public interest and adheres to the Commission's policies favoring negotiated settlements. This Partial Settlement was achieved after settlement discussions. While the Parties have invested time and resources in the negotiation of the Partial Settlement, this process has allowed the Parties and the Commission to avoid expending the substantial resources that would have been required to fully litigate all of the issues in this proceeding while still reaching a just, reasonable and non-discriminatory result. The Parties have thus reached an amicable resolution to this dispute as

³ Partial Settlement at ¶ 12.

⁴ *Id.* at ¶ 39.

embodied in the proposed Partial Settlement. Approval of the Partial Settlement will permit the Commission and the Parties to avoid incurring the additional time, expense and uncertainty of further litigation of issues in this proceeding.⁵

⁵ See 52 Pa. Code § 69.391.

III. CONCLUSION

WHEREFORE, the Philadelphia Area Industrial Energy Users Group ("PAIEUG") respectfully requests that the Pennsylvania Public Utility Commission approve the Joint Petition for Partial Settlement submitted in this proceeding.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

By *Alessandra L Hylander*
Charis Mincavage (Pa. I.D. No.82039)
Adeolu A. Bakare (Pa. I.D. No. 208541)
Alessandra L. Hylander (Pa. I.D. No. 320967)
100 Pine Street
P. O. Box 1166
Harrisburg, PA 17108-1166
Phone: 717-232-8000
Fax: 717-237-5300
cmincavage@mcneeslaw.com
abakare@mcneeslaw.com
ahylander@mcneeslaw.com

Counsel to the Philadelphia Area Industrial Energy
Users Group

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