



April 27, 2017

By eFiling & First Class Mail

Administrative Law Judge Angela Jones  
Pennsylvania Public Utility Commission  
801 Market Street, Suite 4063  
Philadelphia, PA 19107

Re: Petition of PECO Energy Company for Approval of its Default Service Program  
(Customer Assistance Program Shopping Plan) (DSP II), P-2012-2283641

Petition of PECO Energy Company for Approval of its Default Service Program for  
the Period from June 1, 2017 through May 31, 2021, (DSP IV), P-2016-2534980

Dear Judge Jones:

Please find the enclosed Prehearing Memorandum of Tenant Union Representative  
Network and Action Alliance of Senior Citizens of Greater Philadelphia (TURN et al.) in the  
above-captioned matter, which was filed with the Commission.

Copies are being served on parties pursuant to the attached Certificate of Service. Please  
contact me with any questions or concerns.

Sincerely,

Robert W. Ballenger, Esquire  
Josie B.H. Pickens, Esquire

Attorneys for TURN et al.

Enclosure

Cc: Secretary's Office  
Service List



Carrie B. Wright, Esq.  
Phillip C. Kirchner, Esq.  
Pennsylvania Public Utility Commission  
Bureau of Investigation and Enforcement  
P.O. Box 3265  
Harrisburg, PA 17105-3265  
[carwright@pa.gov](mailto:carwright@pa.gov)  
[phikirchne@pa.gov](mailto:phikirchne@pa.gov)

Charles E. Thomas, III, Esq.  
Thomas, Niesen & Thomas, LLC  
212 Locust St., Suite 600  
Harrisburg, PA 17101  
[Cet3@tntlawfirm.com](mailto:Cet3@tntlawfirm.com)

Thomas P. Gadsden, Esq.  
Kenneth M. Kulak, Esq.  
Brooke E. McGlinn, Esq.  
Morgan, Lewis & Bockius  
1701 Market Street  
Philadelphia, PA 19103  
[tgadsden@morganlewis.com](mailto:tgadsden@morganlewis.com)  
[kkulak@morganlewis.com](mailto:kkulak@morganlewis.com)  
[bmclinn@morganlewis.com](mailto:bmclinn@morganlewis.com)

David Zambito, Esq.  
Cozen O'Conner  
305 N. Front St.  
Harrisburg, PA  
[dzambito@cozen.com](mailto:dzambito@cozen.com)

Jesse A. Dillon, Esq.  
PPL Energyplus LLC  
Two North Ninth St.  
Office of General Counsel Gent W4  
Allentown, PA 18101  
[jadillon@pplweb.com](mailto:jadillon@pplweb.com)

Daniel Clearfield, Esq.  
Deanne M. O'Dell, Esq.  
Sarah C. Stoner, Esq.  
Eckert Seamans Cherin & Mellot, LLC  
213 Market Street, 8<sup>th</sup> Floor  
Harrisburg, PA 17101  
[dclearfield@eckertseamans.com](mailto:dclearfield@eckertseamans.com)  
[dodell@eckertseamans.com](mailto:dodell@eckertseamans.com)  
[sstoner@eckertseamans.com](mailto:sstoner@eckertseamans.com)

Elizabeth Rose Triscari, Esq.  
Office of Small Business Advocate  
300 North Second Street, Suite 202  
Harrisburg, PA 17101  
[etriscari@pa.gov](mailto:etriscari@pa.gov)

Patrick M. Cicero, Esq.  
Elizabeth R. Marx, Esq.  
Joline Price, Esq.  
Pennsylvania Utility Law Project  
118 Locust Street.  
Harrisburg, PA 17101  
[pciceropulp@palegalaid.net](mailto:pciceropulp@palegalaid.net)  
[emarxpulp@palegalaid.net](mailto:emarxpulp@palegalaid.net)  
[jpricepulp@palegalaid.net](mailto:jpricepulp@palegalaid.net)

Divesh Gupta, Esq.  
111 Market Place  
Suite 500  
Baltimore, MD 21202  
[Divesh.gupta@constellation.com](mailto:Divesh.gupta@constellation.com)

Scott H. Debroff, Esq.  
Tucker Arensberg  
One Oxford Centre  
301 Grant Street, 14<sup>th</sup> Floor  
Pittsburgh, PA 15219  
[sdebroff@clarkhill.com](mailto:sdebroff@clarkhill.com)

Todd S. Stewart, Esq.  
Hawke McKeon and Sniscak LLP  
100 North Tenth Street  
Harrisburg, PA 17101  
[tsstewart@hmslegal.com](mailto:tsstewart@hmslegal.com)

Telemac N. Chryssikos, Esq.  
101 Constitution Ave NW, Room 319  
Washington, DC 20080  
[tchryssikos@washgas.com](mailto:tchryssikos@washgas.com)

Becky Merola, Esq.  
Government Affairs East  
Noble Americas Solutions, LLC  
5325 Sheffield Ave.  
Powell, OH 43065  
[bmerola@noblesolutions.com](mailto:bmerola@noblesolutions.com)

Amy M. Klodowski, Esq.  
FirstEnergy Corp.  
800 Cabin Hill Dr.  
Greensberg, PA 15601  
[aklodow@firstenergycorp.com](mailto:aklodow@firstenergycorp.com)

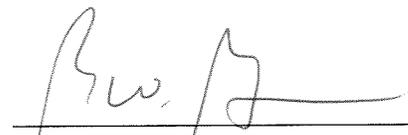
Michael Gruin  
Stevens and Lee  
17 North Second Street, 16<sup>th</sup> Fl.  
Harrisburg, PA 17101  
[mag@stevenslee.com](mailto:mag@stevenslee.com)

Amy E. Hamilton, Director  
Exelon Generation Company  
300 Exelon Way  
Kennett Square, PA 19348  
[Amy.hamilton@exeloncorp.com](mailto:Amy.hamilton@exeloncorp.com)

Joe Clark, Esq.  
21 East State Street, 19<sup>th</sup> Floor  
Columbus, OH 43215  
[Joseph.clark@directenergy.com](mailto:Joseph.clark@directenergy.com)

Jeanne J. Dworetsky, Esq.  
Exelon Business Services Co.  
2301 Market Street S23-1  
P.O. Box 8699  
Philadelphia, PA 19101-8699  
[Jeanne.dworetsky@exeloncorp.com](mailto:Jeanne.dworetsky@exeloncorp.com)

Thomas McCann Mullooly, Esq.  
Foley Lardner LLP  
777 E. Wisconsin Ave.  
Milwaukee, WI 53213  
[tmullooly@foley.com](mailto:tmullooly@foley.com)



---

Robert W. Ballenger, Esq.  
Pa. Attorney ID: 93434  
Community Legal Services, Inc.  
1424 Chestnut Street  
Philadelphia, PA 19102  
Tel: 215-981-3788  
[rballenger@clsphila.org](mailto:rballenger@clsphila.org)

April 27, 2017

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of PECO Energy Company for Approval of its Default Service Program (Customer Assistance Program Shopping Plan) (DSP II)	:	
	:	P-2012-2283641
	:	
	:	
Petition of PECO Energy Company for Approval of its Default Service Program for the Period from June 1, 2017 through May 31, 2021 (DSP IV)	:	
	:	P-2016-2534980
	:	

**Pre-Hearing Memorandum of Tenant Union Representative Network and Action Alliance of Senior Citizens of Greater Philadelphia**

Tenant Union Representative Network and Action Alliance of Senior Citizens of Greater Philadelphia (collectively, TURN et al.), through counsel Community Legal Services, Inc., hereby submit the following Pre-Hearing Memorandum pursuant to the Prehearing Conference Order of April 12, 2017.

*History of the Proceeding.*

By Order entered March 16, 2017, the Pennsylvania Public Utility Commission (Commission) partially granted the Joint Petition for Reconsideration and/or Clarification filed by the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA) and TURN et al., and the Petition for Reconsideration and/or Clarification of the Office of Consumer Advocate, both submitted as of December 19, 2016. In so doing, the Commission sought to establish “a more definitive procedure” to ensure that the record concerning the potential terms and conditions under which PECO’s Customer Assistance Program (CAP) participants could directly shop for electric supply from electricity generation suppliers (EGSs) is thoroughly and properly considered and evaluated. March 16, 2017 Opinion and Order, at 21. The Commission specifically consolidated and referred the two above-

captioned proceedings to the Office of Administrative Law Judge, concluding:

Accordingly, as it is clear that both the instant proceeding and the DSP II proceeding comprise common questions of law and fact with regard to the matter of CAP customer shopping in PECO's service territory, we shall consolidate this DSP IV proceeding, docketed at P-2016-2534980, and the DSP II proceeding, docketed at P-2012-2283641, pursuant to 52 Pa. Code § 5.81(a), for the purpose of addressing the CAP shopping issue. We shall further direct that the consolidated proceeding be referred to the Office of Administrative Law Judge for further proceedings as may be necessary and a decision on the merits of PECO's 2016 CAP Rule Change Filing, the CAP-SOP proposed in this DSP IV proceeding, and all issues relating to the ability of CAP customers to shop for electric generation supply in PECO's service territory. We are of the opinion that consolidating the DSP II and DSP IV proceedings will provide the most appropriate means of ensuring that due process is provided to all affected parties and that the positions of these parties are fully and fairly evaluated. It will also provide this Commission with a single decision containing findings of fact and conclusions of law from which we can evaluate the issues pertaining to the ability of PECO's CAP customers to shop for electric generation supply, and from which the parties will have the opportunity to file Exceptions and Replies to Exceptions.

As set forth in the Commission's Order, at this time, the issues to be considered in this consolidated proceeding are broadly defined as "all issues relating to the ability of CAP customers to shop for electric generation supply in PECO's service territory." Notably, issues virtually to those to be addressed in this case, regarding CAP customers shopping for electric generation supply, are currently on appeal in the Commonwealth Court in another utility service territory. See Retail Energy Supply Association v. Pa. PUC, 230 C.D. 2017 (Petition for Review of Commission Order at PUC Docket No. P-2016-252662 filed February 27, 2017) (hereinafter, the "RESA Appeal").

On April 12, 2017, Administrative Law Judge Angela T. Jones issues a Prehearing Conference Order, directing the submission of prehearing memoranda on or before noon on Thursday, April 27, 2017.

1. Proposed Plan and Schedule of Discovery

TURN et al. are willing to participate in discussions with the parties regarding a reasonable schedule for discovery. The schedule should provide adequate time and opportunity for a thorough analysis of the issues relating to the ability of PECO CAP customers to shop for electric generation supply, including any such issues that may not already have been adequately addressed previously on the record in these proceedings.

2. Possibility of Settlement

TURN et al. are willing to participate in settlement negotiations concerning the program terms and conditions under which PECO CAP customers may shop for electric generation supply.

3. Issues to be Presented

TURN et al. intend to address issues concerning the ability of PECO CAP customers to shop for electric generation supply, including PECO's 2016 CAP Rule Change Filing, CAUSE-PA's proposed CAP Standard Offer Program (CAP-SOP), and such other proposals as may be made regarding the terms and conditions under which PECO CAP participants may be able to shop for electricity.

TURN et al. reserve the right to raise other relevant issues and respond to other issues that may arise in the course of this proceeding.

4. Witnesses

At this time, TURN et al. intend to present the testimony of Mr. Philip A. Bertocci, Esquire, who previously provided testimony as TURN et al.'s witness in the proceedings at P-2016-2534980. Mr. Bertocci also served as CAUSE-PA's witness in the proceedings at P-2012-

2283641.

Mr. Bertocci may be reached by mail as follows:

Philip A. Bertocci, Esq.  
c/o Community Legal Services  
1424 Chestnut Street  
Philadelphia, PA 19102

It is anticipated that Mr. Bertocci will provide testimony regarding the need for reasonable CAP programmatic protections that permit PECO CAP customers to shop for electricity without risk of undue harm of higher prices for electricity in the competitive market.

Mr. Bertocci may also address other issues and provide testimony in response to other parties.

5. Schedule for submission of testimony, hearings and briefs

TURN et al. support holding these proceedings in abeyance pending resolution of similar issues in the RESA Appeal currently before the Commonwealth Court.

TURN et al. have conferred with PECO and the other anticipated parties to this proceeding concerning a schedule for submission of testimony, hearings and briefs that is expected to allow TURN et al.'s witness to participate and the parties to address the outcome of the RESA Appeal. TURN et al. find that schedule acceptable, in the event the proceedings are not held in abeyance.

6. Service on TURN et al.

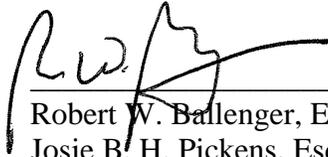
TURN et al. will be represented in this case by Robert W. Ballenger, Esquire, and Josie B.H. Pickens, Esquire, who will accept electronic delivery of documents.

One hard copy of all documents should also follow by first class mail to TURN et al. as

follows:

Robert W. Ballenger, Esquire  
Community Legal Services, Inc.  
1424 Chestnut Street  
Philadelphia, PA 19102  
Telephone: 215-981-3700  
Facsimile: 215-981-0435  
E-mail: rballenger@clsphila.org, jpickens@clsphila.org

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'R.W. Ballenger', written over a horizontal line.

Robert W. Ballenger, Esquire (Atty ID: 93434)  
Josie B. H. Pickens, Esquire (Atty ID: 309422)

Attorneys for TURN, et al.  
COMMUNITY LEGAL SERVICES, INC.  
1424 Chestnut Street  
Philadelphia, PA 19102

April 27, 2017