



100 Pine Street • PO Box 1166 • Harrisburg, PA 17108-1166  
Tel: 717.232.8000 • Fax: 717.237.5300

Alessandra L. Hylander  
Direct Dial: 717.237.5435  
Direct Fax: 717.260.1689  
ahylander@mwn.com

April 27, 2017

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2<sup>nd</sup> Floor  
Harrisburg, PA 17120

**VIA ELECTRONIC FILING**

**RE: Petition of PECO Energy Company for Approval of its Default Service Program  
(Customer Assistance Program Shopping Plan) (DSP II)  
Docket No. 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)  
Docket No. P-2016-2534980**

Dear Secretary Chiavetta:

Please find enclosed for filing with the Pennsylvania Public Utility Commission the Prehearing Memorandum of the Philadelphia Area Industrial Energy Users Group ("PAIEUG") in the above-referenced proceeding.

As evidenced by the attached Certificate of Service, all parties to this proceeding are being duly served.

Very truly yours,

McNEES WALLACE & NURICK LLC

By   
Alessandra L. Hylander

Counsel to Philadelphia Area Industrial Energy Users Group

Enclosure

c: Administrative Law Judge Angela T. Jones (via Email and First-Class Mail)  
Certificate of Service

[www.McNeesLaw.com](http://www.McNeesLaw.com)

Harrisburg, PA • Lancaster, PA • Scranton, PA • State College, PA • Columbus, OH • Frederick, MD • Washington, DC

## CERTIFICATE OF SERVICE

I hereby certify that I am this day serving a true copy of the foregoing document upon the participants listed below in accordance with the requirements of Section 1.54 (relating to service by a participant).

### VIA E-MAIL AND/OR FIRST CLASS MAIL

*Representing PECO Energy Company:*

Romulo L. Diaz, Jr., Esquire  
W. Craig Williams, Esquire  
Anthony Gay, Esquire  
Exelon Business Services Company  
2301 Market Street  
Legal Department S23-1  
Philadelphia, PA 19103  
[romulo.diaz@exeloncorp.com](mailto:romulo.diaz@exeloncorp.com)  
[craig.williams@exeloncorp.com](mailto:craig.williams@exeloncorp.com)  
[anthony.gay@exeloncorp.com](mailto:anthony.gay@exeloncorp.com)

*Representing PECO Energy Company:*

Thomas P. Gadsden, Esquire  
Kenneth M. Kulak, Esquire  
Brooke E. McGlinn, Esquire  
Morgan Lewis and Bockius LLP  
1701 Market Street  
Philadelphia, PA 19103  
[thomas.gadsden@morganlewis.com](mailto:thomas.gadsden@morganlewis.com)  
[ken.kulak@morganlewis.com](mailto:ken.kulak@morganlewis.com)  
[brooke.mcglinn@morganlewis.com](mailto:brooke.mcglinn@morganlewis.com)

*Representing Office of Consumer Advocate:*

Candis A. Tunilo, Esquire  
Christy Appleby, Esquire  
Aron J. Beatty, Esquire  
Office of Consumer Advocate  
555 Walnut Street, 5th Floor, Forum Place  
Harrisburg, PA 17101  
[ctunilo@paoca.org](mailto:ctunilo@paoca.org)  
[cappleby@paoca.org](mailto:cappleby@paoca.org)  
[abeatty@paoca.org](mailto:abeatty@paoca.org)

*Representing Office of Small Business Advocate:*

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

*Representing PA PUC BIE Legal Technical:*

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

*Representing Pennsylvania Utility Law Project:*

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

*Representing Constellation Energy:*

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

*Representing Community Legal Service:*

Maripat Pileggi, Esquire  
Community Legal Service  
1410 West Erie Avenue  
Philadelphia, PA 19140

*Representing Community Legal Services, Inc.:*

Robert W. Ballenger, Esquire  
Josie H. Pickens, Esquire  
1424 Chestnut Street  
Philadelphia, PA 19102  
[rballenger@clsphila.org](mailto:rballenger@clsphila.org)  
[jpickens@clsphila.org](mailto:jpickens@clsphila.org)

*Representing Noble Americas Energy Solutions, LLC:*

Charles E. Thomas III, Esquire  
Thomas Niesen & Thomas LLC  
212 Locust Street Suite 600  
Harrisburg, PA 17101  
[cet3@tntlawfirm.com](mailto:cet3@tntlawfirm.com)

Brian J. Knipe, Esquire  
Buchanan Ingersoll & Rooney  
76 South Main  
Akron, OH 44308

Scott H. Debroff, Esquire  
Tucker Arnsberg  
One Oxford Centre,  
301 Grant Street, 14th Floor  
Pittsburgh, PA 15219  
[sdebroff@clarkhill.com](mailto:sdebroff@clarkhill.com)

*Representing CEIBA:*

Will Gonzalez, Executive Director  
149 West Susquehanna Avenue  
Philadelphia, PA 19122

*Representing Washington Gas Energy Services:*

Telemac N. Chryssikos, Esquire  
101 Constitution Avenue, NW  
Room 319  
Washington, DC 20080

*Representing Direct Energy:*  
Joe Clark, Esquire  
21 East State Street, 19th Floor  
Columbus, OH 43215

H. Gil Peach  
H. Gil Peach & Associates, LLC  
16232 NW Oak Hill Drive  
Beaverton, OR 97006-5242

Jesse A. Dillon, Esquire  
PPL EnergyPlus, Inc.  
Office of General Counsel Gent W4  
Two North Ninth Street  
Allentown, PA 18101  
[jadillon@pplweb.com](mailto:jadillon@pplweb.com)

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

Steven Larin, Director  
Nationalities Services Center  
1216 Arch Street, 4th Floor  
Philadelphia, PA 19107

Natasha Kelemen, Executive Director  
2100 Arch Street, 7th Floor  
Philadelphia, PA 19104

*Representing Face to Face:*  
Veronica Ludt  
Face to Face  
109 East Price Street  
Philadelphia, PA 19144

*Representing Nextera Energy, Inc.*  
Stephen L. Huntoon, Esquire  
801 Pennsylvania Avenue, NW  
Suite 220  
Washington, DC 20004  
[shuntoon@fpl.com](mailto:shuntoon@fpl.com)

Amy J. Klodowski, Esquire  
FirstEnergy Corporation  
800 Cabin Hill Drive  
Greensburg, PA 15601  
[Aklodow@firstenergycorp.com](mailto:Aklodow@firstenergycorp.com)

*Representing Pennsylvania Immigration and  
Citizenship Coalition:*  
Laurie L. Baughman, Esquire  
3605 Vartan Way, Suite 101  
Harrisburg, PA 17110

Amy E. Hamilton, Director  
Exelon Generation Company  
300 Exelon Way  
Kennett Square, PA 19348

*Representing Exelon Business Services Co.,  
LLC:*  
Noel Trask, Associate General Counsel  
300 Exelon Way  
Kennett Square, PA 19348

*Representing Exelon Generation Co., LLC and  
Exelon Energy Co.:*  
Thomas McCann Mullooly, Esquire  
Foley Lardner, LLP  
777 East Wisconsin Avenue  
Milwaukee, WI 53213

*Representing PPL EnergyPlus, LLC:*  
Andrew W. Tubbs, Esquire  
Post & Schell, PC  
800 North Third Street, Suite 204  
Harrisburg, PA 17102

*Representing RESA and Direct Energy Services, LLC and Choose Wind PA:*

Daniel Clearfield, Esquire

Sarah C. Stoner, Esquire

Deanne M. O'Dell, Esquire

Carl Shultz, Esquire

Eckert Seamans Cherin & Mellott, LLC

213 Market Street, 8th Floor

Harrisburg, PA 17101

[dclearfield@eckertseamens.com](mailto:dclearfield@eckertseamens.com)

[sstoner@eckertseamens.com](mailto:sstoner@eckertseamens.com)

[dodell@eckertseamens.com](mailto:dodell@eckertseamens.com)

David P. Zambito, Esq.

Cozen O' Connor

305 N. Front Street

Harrisburg, PA 17101

[dzambito@cozen.com](mailto:dzambito@cozen.com)

Becky Merola

Government Affairs East

Noble Americas Energy Solutions LLC

5325 Sheffield Avenue

Powell, OH 43065

[bmerola@noblesolutions.com](mailto:bmerola@noblesolutions.com)

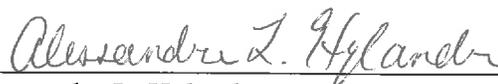
Michael A. Gruin, Esq.

Stevens & Lee

17 North Second Street, 16<sup>th</sup> Floor

Harrisburg, PA 17101

[Mag@stevenslee.com](mailto:Mag@stevenslee.com)



Alessandra L. Hylander

Counsel to the Philadelphia Area Industrial  
Energy Users Group

Dated this 27th day of April, 2017, in Harrisburg, Pennsylvania.

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

---

**PREHEARING MEMORANDUM OF  
THE PHILADELPHIA AREA INDUSTRIAL ENERGY USERS GROUP**

---

Pursuant to the April 12, 2017, Prehearing Conference Order issued by Administrative Law Judge Angela T. Jones, the Philadelphia Area Industrial Energy Users Group ("PAIEUG") hereby submits this Prehearing Memorandum in the above-captioned proceeding.

**I. HISTORY OF THE PROCEEDING**

On March 17, 2016, PECO filed with the Pennsylvania Public Utility Commission ("PUC" or "Commission") a Petition for Approval of a Default Service Program ("DSP IV") for the period June 1, 2017 through May 31, 2021 ("DSP IV Petition").

On April 8, 2016, PAIEUG filed a Petition to Intervene and Answer in the DSP IV proceeding. A description of PAIEUG is set forth in Paragraph 1 of its Petition to Intervene.

After the submission of written testimony, the parties to the DSP IV proceeding engaged in settlement discussions, which resulted in a settlement resolving all but one issue involving the ability of customers enrolled in PECO's Customer Assistance Program ("CAP") to shop for electric generation supply.

On July 28, 2016, PECO, the Commission's Bureau of Investigation and Enforcement ("I&E"), the Office of Consumer Advocate ("OCA"), the Office of Small Business Advocate ("OSBA"), PAIEUG, and the Retail Energy Supply Association ("RESA") filed a Joint Petition for Partial Settlement in the DSP IV proceeding ("DSP IV Joint Petition") and statements in support thereof. The Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania ("CAUSE-PA"), Direct Energy Services, LLC ("Direct Energy"), and the Tenant Union Representative Network, and Action Alliance of Senior Citizens of Greater Philadelphia ("TURN, *et al.*") did not oppose the DSP IV Joint Petition. Noble Americas Energy Solutions LLC ("Noble") was the only party which opposed the DSP IV Joint Petition.

After filing the DSP IV Joint Petition, the parties to the DSP IV proceeding continued to litigate the remaining CAP issue. On August 11, 2016, Main Briefs were filed by PECO, I&E, OCA, CAUSE-PA, RESA, and TURN, *et al.* Also, on August 11, 2016, Noble filed Objections to the DSP IV Joint Petition with regard to a provision relating to PECO's recovery of certain PJM charges from all distribution customers in its service territory through its Non-Bypassable Transmission Charge.

On August 25, 2016, PECO, OCA, CAUSE-PA, RESA, and TURN, *et al.* filed Reply Briefs. Also, that same day, I&E, PAIEUG, and RESA filed Responses to Noble's Objections to the DSP IV Joint Petition.

On October 4, 2016, ALJ Cynthia Williams Fordham issued a Recommended Decision ("R.D.") wherein she recommended approval of the DSP IV Joint Petition without modification and denied Noble's Objections thereto. ALJ Fordham declined to address the CAP shopping issue due to PECO's filing of a CAP shopping plan in a separate proceeding.

On October 14, 2016, OCA and Noble each filed Exceptions to the ALJ's R.D., and CAUSE-PA and TURN, *et al.* also filed Joint Exceptions. On October 21, 2016, PECO and RESA filed Reply Exceptions, and PAIEUG filed a Letter in Lieu of Reply Exceptions.

On December 8, 2016, the PUC issued an Order (1) denying the Exceptions of OCA and Noble; (2) granting, in part, and denying, in part, the Exceptions of CAUSE-PA and TURN, *et al.*; (3) adopted the R.D. of ALJ Fordham; (4) approved the DSP IV Joint Petition without modification; (5) denied Noble's Objections to the DSP IV Joint Petition; (6) approved PECO's DSP IV Petition, as modified by the DSP IV Joint Petition; and, (7) deferred issues relating to PECO's plan to permit CAP customer shopping for generation supply to PECO's DSP II proceeding.

On December 19, 2016, CAUSE-PA and TURN, *et al.* collectively filed a Petition for Reconsideration and/or Clarification and OCA separately filed a Petition for Reconsideration and/or Clarification.<sup>1</sup> On December 29, 2016, PECO and RESA filed Answers to the Petitions for Reconsideration and/or Clarification of CAUSE-PA and TURN, *et al.* and the OCA.

In an Opinion and Order entered on March 16, 2017, the PUC granted in part the Petitions for Reconsideration and/or Clarification of CAUSE-PA and TURN, *et al.* and OCA. The PUC also consolidated the DSP IV proceeding at Docket No. P-2016-2534980 with PECO's second Default Service Plan proceeding at Docket No. P-2012-2283641<sup>2</sup> ("DSP II") and referred that consolidated proceeding to ALJ Jones for further review of the merits of PECO's 2016 CAP Rule Change Filing, the CAP Standard Offer Program ("CAP-SOP") proposed in the DSP IV

---

<sup>1</sup> OCA updated this Petition for Reconsideration and/or Clarification on December 20, 2016, to include a signed verification.

<sup>2</sup> As discussed above, PAIEUG submitted a Petition to Intervene and Answer in the DSP IV proceeding and a Petition to Intervene and Answer in PECO's DSP II proceeding. As a result, due to its involvement in both of the above-captioned dockets, PAIEUG did not foresee a need to file a Petition to Intervene in this consolidated proceeding.

proceeding, and all issues relating to CAP customers' ability to shop for electric generation supply in PECO's service territory.

## **II. SERVICE LIST**

For purposes of service in the above-captioned proceeding, please direct all communications to:

Charis Mincavage (Pa. I.D. 82039)  
Adeolu A. Bakare (Pa. I.D. 208541)  
Alessandra L. Hylander (Pa. I.D. 320967)  
100 Pine Street  
Harrisburg, PA 17101  
Phone: (717) 232-8000  
Fax: (717) 260-1744  
[cmincavage@mcneeslaw.com](mailto:cmincavage@mcneeslaw.com)  
[abakare@mcneeslaw.com](mailto:abakare@mcneeslaw.com)  
[ahylander@mcneeslaw.com](mailto:ahylander@mcneeslaw.com)

## **III. ANTICIPATED ISSUES AND SUB-ISSUES**

PAIEUG will be reviewing the proposals presented in this proceeding to determine whether any such proposals would impact large commercial and industrial customers. As such, PAIEUG reserves the right to address any issues, including in response to all CAP issues, raised by other parties in this proceeding.

## **IV. PROPOSED WITNESSES**

At this time, PAIEUG is still reviewing whether it will present a witness in this proceeding. PAIEUG also reserves the right to participate in this proceeding through the submission of discovery, testimony, cross-examination of other parties' witnesses, and the submission of briefs, exceptions and reply exceptions, if necessary.

## **V. PROPOSED SCHEDULE AND DISCOVERY RULES**

PAIEUG will cooperate with other parties to develop a mutually acceptable schedule for discovery and testimony. To the extent necessary, PAIEUG will also cooperate with the ALJ and

the parties at the Prehearing Conference to address any requested modifications to the Commission's standard discovery rules in accordance with the Commission's Regulations and any directives issued by the ALJ.

#### VI. POSSIBILITY OF SETTLEMENT

PAIEUG is willing to participate in discussions with the other parties to amicably resolve the issues in this proceeding.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

By Alessandra L. Hylander  
Charis Mincavage (Pa. I.D. 82039)  
Adeolu A. Bakare (Pa. I.D. 208541)  
Alessandra L. Hylander (Pa. I.D. 320967)  
100 Pine Street  
Harrisburg, PA 17101  
Phone: (717) 232-8000  
Fax: (717) 260-1744  
[cmincavage@mcneeslaw.com](mailto:cmincavage@mcneeslaw.com)  
[abakare@mcneeslaw.com](mailto:abakare@mcneeslaw.com)  
[ahylander@mcneeslaw.com](mailto:ahylander@mcneeslaw.com)

Counsel to the Philadelphia Area Industrial  
Energy Users Group

Dated: April 27, 2017