

Legal Department
2301 Market Street / S23-1
Philadelphia, PA 19103
Email: Ward.Smith@exeloncorp.com

Direct Dial: 215-841-6863

February 27, 2019

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

**RE: Pennsylvania Public Utility Commission, Bureau of Investigation
& Enforcement v. PECO Energy Company
Docket No. M-2018-2531404**

Dear Secretary Chiavetta:

PECO Energy Company's *Notice of Non-Withdrawal and Status Update* are enclosed for filing.

Very truly yours,



Ward L. Smith
Assistant General Counsel

WLS/adz
Attachment

c: Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
Bureau of Investigation and Enforcement	:	
	:	
v.	:	Docket No. M-2018-2531404
	:	
PECO Energy Company	:	

PECO Energy Company’s Notice of Non-Withdrawal and Status Update

On February 7, 2019, the Commission issued its Opinion and Order in this docket. In its Opinion and Order, the Commission directed PECO to take four actions, with the first such action due on February 27, 2019. The purpose of this filing is to update the Commission with respect to PECO’s progress on those four directed actions.

(1) Withdrawal/non-withdrawal from the Settlement

In Ordering Paragraph 2, the Commission ordered:

That, within twenty days of the entry of this Opinion and Order [in this case, by February 27, 2019], any Party may file with the Secretary of the Pennsylvania Public Utility Commission at this docket number a notice that it is withdrawing from the Settlement Agreement entered into between the Pennsylvania Public Utility Commission’s Bureau of Investigation and Enforcement and PECO Energy Company, that was filed on April 16, 2018. If any Party withdraws from the Settlement Agreement, the Agreement shall be disapproved without further action by this Commission and this matter shall be referred to the Bureau of Investigation and Enforcement for such further action as may be warranted

PECO is not withdrawing from the Settlement Agreement.

(2) Payment of \$10,000 civil fine

In Ordering Paragraph 3a, the Commission Ordered that, if no party withdraws from the Settlement Agreement by the February 27, 2019 deadline, then PECO must pay a civil fine of \$10,000 within thirty days of the entry date of the Opinion and Order (in this case, because the 30th day falls on a weekend, by Monday, March 11, 2019).

PECO will assess the docket after the February 27, 2019 withdrawal deadline and then, if and as appropriate, pay the civil fine as directed by March 11, 2019.

3. MEAF Matching Contribution

In Ordering Paragraph 2c, the Commission ordered:

That, within sixty (60) days of the entry date of this Opinion and Order [in this case, by April 8, 2019], PECO Energy Company shall make available for matching contributions in its Matching Energy Assistance Fund the amount of \$20,000 and shall file a notice of compliance pursuant to 52 Pa. Code § 5.591.

Elsewhere in the Opinion and Order (p. 21), the Commission discussed this term of the Settlement, stating (emphasis added):

Regarding the Advocates' comments about MEAF funding, we decline to modify the Settlement to redirect or adjust the level of this distribution. Parties to settled cases are afforded flexibility in reaching amicable resolutions, so long as the settlement is in the public interest. *Here, I&E appears satisfied that the entire MEAF fund will likely be expended during the fiscal years affected by the MEAF fund increase proposed in the Settlement.* I&E Statement in Support at 10. *Under the circumstances* in this case, we are not inclined to disturb the proposed Settlement by adding a requirement that PECO redirect or adjust the level of this distribution.

In a separate Statement issued that same day, Vice-Chairman Sweet addressed the MEAF settlement term and expressed concern that it might not result in an actual increase in funds available to low-income customers. The Vice-Chairman urged PECO

to be flexible and creative in implementing this provision and stated that: “[U]nder PECO’s own reasoning, it could donate \$10,000 to one or more [community-based organizations, also known as] CBOs and then match the funds up to the remaining \$10,000, and the \$20,000 commitment would be immediately available.”

Upon receipt of the Opinion and Order and Vice-Chairman Sweet’s Statement, PECO reviewed the status of its 2018-19 MEAF budget and matches made to date. The MEAF budget has not been fully expended. Increasing the MEAF budget, as contemplated by the Settlement, therefore would not in and of itself result in an actual increase in funds available to low-income customers in the 2019 winter season. PECO has therefore determined that it will implement this obligation using the approach suggested by Vice-Chairman Sweet. Assuming that no party withdraws from the Settlement by today’s deadline, then during the next week PECO will donate \$10,000 to CBOs in its service territory and match those contributions using MEAF funds when the grants are presented by the CBOs, thus making the full \$20,000 immediately available in the 2019 winter season.

Once the contribution checks have been sent to the CBOs, PECO will separately file a §5.591 compliance notice.

4. Tariff compliance filing

In Ordering Paragraph 2d, the Commission ordered:

That, within sixty (60) days of the entry date of this Opinion and Order [in this case, by April 8, 2019], PECO Energy Company shall file a tariff supplement with the Commission for approval. A copy of the tariff supplement shall be served by PECO Energy Company on all parties and commenters in this proceeding. The tariff supplement shall incorporate and be consistent with the provisions for

Winter Terminations set forth in the Joint Petition for Partial Settlement approved by the Commission in *Pennsylvania Public Utility Commission et al. v. PECO Energy Company – Electric Division*, Docket Nos. R-2018-3000164, *et al.* (Order entered December 20, 2018).

PECO is preparing its tariff compliance filing as directed and will file it with the Commission on or before April 8, 2019.

Conclusion

PECO is not withdrawing from the Settlement Agreement. It will implement its MEAF obligation using the flexible, creative approach recommended by Vice-Chairman Sweet. Finally, PECO is on track to timely pay the civil penalty and make its compliance tariff filing.

Respectfully submitted:



Ward Smith
Assistant General Counsel
PECO Energy Company
2301 Market St., S23-1
Philadelphia, PA 19103
215-841-6863
Ward.smith@exeloncorp.com
February 27, 2019

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission	:	
Bureau of Investigation and Enforcement	:	
	:	Docket No. M-2018-2531404
v.	:	
	:	
PECO Energy Company	:	

CERTIFICATE OF SERVICE

I, Ward L. Smith hereby certify I have this day served a copy of *Notice of Non-Withdrawal and Status Update*, of PECO Energy Company, in the above matter, upon all interested parties listed below, via overnight delivery to:

Bradley R. Gorter, Prosecutor
Bureau of Investigation & Enforcement
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120
bgorterW@pa.gov

John Evans
Small Business Advocate
Office of Small Business Advocate
300 North Second Street
Harrisburg, PA 17101

Tanya McCloskey
Assistant Consumer Advocate
Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923
tmccloskey@paoca.gov

Josie B. H. Pickens, Esquire
Robert W. Ballenger, Esquire
Community Legal Services
on Behalf of TURN and Action Alliance
1410 West Erie Avenue
Philadelphia, PA 19140
jpickens@clsphila.org
rballenger@clsphila.org

Patrick Cicero, Esquire
John W. Sweet, Esquire
Elizabeth R. Marx, Esquire
Kadeem G. Morris, Esquire
Pennsylvania Utility Law Project
On Behalf of CAUSE-PA
118 Locust Street
Harrisburg, PA 17101
pulp@palegalaid.net

Dated: February 27, 2019



Ward L. Smith
Counsel for PECO Energy Company
2301 Market Street, S23-1
Philadelphia, PA 19103
Phone: (215) 841-6863
Ward.Smith@exeloncorp.com