**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of PECO Energy Company for :

Approval of Its Default Service Program for : P-2020-3019290

the Period From June 1, 2021 Through :

May 31, 2025 :

**ORDER REGARDING THE ADMISSION OF RON CELENTANO’S EXHIBITS INTO THE PUBLIC INPUT HEARING RECORD**

On March 13, 2020, PECO filed a Petition requesting that the Commission approve its fifth Default Service Program (DSP) in accordance with its responsibilities as the default service provider for its certificated service territory for the period from June 1, 2021 through May 31, 2025, following the expiration of its current default service program.

Notice of PECO’s Petition and Prehearing Conference was published in the *Pennsylvania Bulletin* on April 18, 2020, 50 Pa.B. 2164. A deadline of May 1, 2020 was established for the filing of formal protests, petitions to intervene and answers. The Prehearing conference was set for May 5, 2020.

Pursuant to the litigation schedule established in the Prehearing Order dated May 8, 2020, a public input hearing was held on June 9, 2020. Ron Celentano was one of the thirty-six people who testified under oath regarding PECO’s newly proposed DSP program. Mr. Celentano testified that he is President of the Pennsylvania Solar Energy Industries Association (PA SEIA) and the Pennsylvania Vice-President of Mid-Atlantic Solar and Storage Industries Association (MSSIA), which is a not-for-profit trade association made up of businesses and professionals working in Pennsylvania, New Jersey, and Delaware involved in the development, manufacturing, design, construction and installation of solar photovoltaic and energy storage system. He is also a solar PV industry consultant with his own company, Celentano Energy Services, who has performed a wide range of technical solar PV work in Pennsylvania for ever 25 years. Tr. 243.

In addition to his oral testimony, Mr. Celentano submitted a Written Statement along with five proposed exhibits for the record. PECO’s counsel objected to the admission of Mr. Celentano’s Exhibits 3, 4 and 5 on the basis that they were not prepared by Mr. Celentano and constituted hearsay. Tr. 250. Counsel for Clean Air Council, Sierra Club/PA Chapter, and Philadelphia Solar Energy Association (collectively, the “Environmental Stakeholders”), Devin McDougall, Esq. responded to PECO’s objection by arguing that the Exhibits in question are admissible pursuant to Pennsylvania Rule of Evidence 803(17) referring to market reports and similar commercial publications and the provisions of 52 Pennsylvania Code Section 5.406. Tr. 251-52. A ruling on PECO’s objections was not made the at the hearing.

Pennsylvania Rule of Evidence 803(17) reads in pertinent part: “The following are not excluded by the rule against hearsay, regardless of whether the declarant is available as a witness: … (17) Market Reports and Similar Commercial Publications. Market quotations, lists, directories, or other compilations that are generally relied on by the public or by persons in particular occupations.” Pa.R.E. 803(17). In addition, the Commission’s regulations at 52 Pa.Code § 5.406 on Public Documents state as follows:

 (a)  A report, decision, opinion or other document or part thereof, need not be produced or marked for identification, but may be offered in evidence as a public document by specifying the document or part thereof and where it may be found, if the document is one of the following:

   (1)  A report or other document on file with the Commission.

   (2)  An official report, decision, opinion, published scientific or economic statistical data or similar public document which is issued by a governmental department, agency, committee, commission or similar entity which is shown by the offeror to be reasonably available to the public.

Mr. Celentano’s Exhibit 3 is the April 2020 edition of *Clean Jobs America 2020* which is a clean energy employment report published by E2 (Environmental Entrepreneurs). In turn, E2 is a national, nonpartisan group of business leaders, investors, and professionals from every sector of the economy who advocate for policies that are good for the economy and the environment. See Mr. Celentano’s Exhibit 3.

Mr. Celentano’s Exhibit 4 is Jeremy F. Keen’s dissertation on “Stakeholder Costs and Benefits of Distributed Energy Resources on Distribution Networks” prepared by him as part of the requirements of Carnegie Mellon University Doctor of Philosophy program.

Mr. Celentano’s Exhibit 5 is the 2019 edition and 10th annual *National Solar Jobs Census* published by the Solar Foundation. The Solar Foundation is a national nonprofit organization whose stated mission is to accelerate adoption of the world’s most abundant energy source. See Mr. Celentano’s Exhibit 5.

Upon careful review of Mr. Celentano’s testimony and his proposed Exhibits, I find that Mr. Celentano’s proposed Exhibits 3 and 5 are admissible into the record of the Public Input Hearing under the “Market Reports” exception to the hearsay rule of admissibility. They are employment and jobs market reports “that are generally relied on by the public or by persons in particular occupations.” Pa.R.E. 803(17). The same cannot be said about Mr. Celentano’s Exhibit 4. Pennsylvania does not have an exception to the hearsay rule for learned treatises or dissertations of the nature of Exhibit 4. Nor can Exhibit 4 be offered into evidence as a public document under the provisions of 52 Pa.Code § 5.406(a) because it is neither a report or other document on file with the Commission, nor “an official report, decision, opinion, published scientific or economic statistical data or similar public document which is issued by a governmental department, agency, committee, commission or similar entity.” 52 Pa.Code § 5.406(a)(2) (Emphasis added).

THEREFORE,

IT IS ORDERED:

1. That the Objections of PECO Energy Company to the admission of Celentano Exhibits 3 and 5 into the record of the Public Input Hearing are overruled.
2. That the Objections of PECO Energy Company to the admission of Celentano Exhibit 4 into the record of the Public Input Hearing is sustained.
3. That Celentano Exhibits 3 and 5 are admitted into the record of the Public Input Hearing at Docket No. P-2020-3019290.
4. That Celentano Exhibit 4 is not admitted into the record of the Public Input Hearing at Docket No. P-2020-3019290.

Dated: July 2, 2020

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Eranda Vero

Administrative Law Judge

**P-2020-3019290 - PETITION OF PECO ENERGY COMPANY FOR APPROVAL OF ITS DEFAULT SERVICE PLAN FOR THE PERIOD FROM JUNE 1, 2021 THROUGH MAY 31, 2025**

*Revised 05/19/20*

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