



September 14, 2020

VIA E-File

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
400 North Street, Filing Room
Harrisburg, PA 17120

**RE: Tenant Union Representative Network v. PECO Energy Company
Docket No. C-2020-3021557**

Petition to Intervene and Answer of CAUSE-PA

Dear Secretary Chiavetta,

Please find the attached **Petition to Intervene and Answer of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA)** for filing in the above noted proceeding.

Please note that this document was filed earlier this morning; however, we discovered a substantive error that has since been revised. We are therefore requesting that the earlier filed version of this document be rejected, and that this version be accepted for filing at this docket.

Copies have been served electronically in accordance with the attached Certificate of Service.

Respectfully Submitted,
Counsel for CAUSE-PA

A handwritten signature in blue ink that reads "Elizabeth R. Marx".

Elizabeth R. Marx, Esq.

CC: Certificate of Service

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Tenant Union Representative Network :
Complainant : Docket No. C-2020-3021557
v. :
PECO Energy Company :
Respondent :

CERTIFICATE OF SERVICE

I hereby certify I have on this day served copies of the **Petition to Intervene and Answer of CAUSE-PA** in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party) and consistent with the Commission’s March 20 Emergency Order at Docket M-2020-3019262.

VIA EMAIL

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September 14, 2020

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Tenant Union Representative Network	:	
Complainant	:	Docket No. C-2020-3021557
v.	:	
PECO Energy Company	:	
Respondent	:	

**PETITION TO INTERVENE AND ANSWER
OF THE COALITION FOR AFFORDABLE UTILITY SERVICES AND ENERGY
EFFICIENCY IN PENNSYLVANIA**

The Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA), through its counsel at the Pennsylvania Utility Law Project, hereby files this Petition to Intervene and Answer in the above-captioned proceeding, pursuant to the provisions of the Rules of Practice and Procedure of the Pennsylvania Public Utility Commission (PUC or Commission), 52 Pa. Code §§ 5.61-5.66 and 5.71-5.76.

On August 25, 2020, the Tenant Union Representative Network (TURN) filed a Complaint against PECO Energy Company, alleging that PECO is in violation of a 2015 Joint Settlement in PECO’s Universal Service and Energy Conservation Plan proceeding, to which CAUSE-PA was a signatory party.¹ CAUSE-PA agrees with TURN. PECO has not fulfilled the commitment it made to reduce its maximum allowable energy burden in its Customer Assistance Program (CAP)

¹ PECO Energy Company Universal Service and Energy Conservation Plan for 2013-2015 Submitted in Compliance with 52 Pa. Code §§ 54.74 and 62.4, Joint Petition for Settlement, Docket No. M-2012-2290911, at Exhibit A (Term Sheet) (filed March 20, 2015).

consistent with the amendments to the Commission’s recently revised CAP Policy Statement.² As such, PECO should be compelled to reduce its maximum CAP energy burden standards in compliance with the terms of the 2015 Joint Settlement.

STANDING TO INTERVENE AND PARTICIPATE

1. Eligibility to intervene in Commission proceedings is governed by 52 Pa. Code § 5.72. This section provides, in relevant part, that “[a] petition to intervene may be filed by a person claiming a right to intervene or an interest of such nature that intervention is necessary or appropriate to the administration of the statute under which the proceeding is brought.” 52 Pa. Code § 5.72(a).

2. Section 5.72 further provides that the right or interest may be one “which may be directly affected and which is not adequately represented by existing participants, and as to which the petitioner may be bound by the action of the Commission in the proceeding.” 52 Pa. Code. § 5.72(a)(2).

² 2019 Amendments to Policy Statement on Customer Assistance Program, 52 Pa. Code § 69.261-69.267, Final Policy Statement and Order, Docket No. M-2019-3012599 (order entered Nov. 5, 2019).

While the Commission’s Final Policy Statement and Order was subject to two Petitions for Reconsideration and/or Clarification, filed separately by the Office of Consumer Advocate and the Energy Association of Pennsylvania, as well as a request of the Energy Association of Pennsylvania for a partial stay, there was no request by any party to stay the effectiveness of the Commission’s revised maximum energy burden standards pending reconsideration – nor was any such stay imposed. See 2019 Amendments to Policy Statement on Customer Assistance Program, 52 Pa. Code § 69.261-.267, Order, Docket No. M-2019-3012599 (Nov. 25, 2019) (granting partial stay on paragraphs 6, 7, and 8 of the Final Policy Statement and Order, none of which impact the Commission’s revised energy burden standards).

The Commission’s Final Policy Statement and Order was affirmed by the Commission on reconsideration on February 6, 2020, and was not subsequently appealed to the Commonwealth Court. See Petition of Energy Association of Pennsylvania for Reconsideration/Clarification of the November 5, 2019 Final CAP Policy Statement and Order, Order on Reconsideration and Clarification, at Docket Nos. M-2019-3012599 & P-2020-3016889 (Feb. 6, 2020); see also Petition of Office of Consumer Advocate for Reconsideration/Clarification of the November 5, 2019 Final CAP Policy Statement and Order, Order on Reconsideration/Clarification, Docket Nos. M-2019-3012599, P-2020-3016885 (Feb. 6, 2020).

3. Even though Section 5.72 speaks of the rights of a “person” to intervene, the Commonwealth Court has consistently stated that “an association may have standing as a representative of its members . . . as long as an organization has at least one member who has or will suffer a direct, immediate, and substantial injury to an interest as a result of the challenged action, [i.e., is aggrieved, the organization] has standing.” Energy Cons. Council of Pa. v. Pa. PUC, 995 A.2d 465, 476 (Pa. Commw. Ct. 2010) (alteration in original) (citing Tripps Park v. Pa. PUC, 415 A.2d 967 (Pa. Commw. Ct. 1980); Parents United for Better Schools v. School Dist. of Phila., 614 A.2d 689 (Pa. Commw. Ct. 1994)).

4. CAUSE-PA is an unincorporated association of low and moderate income individuals that advocates on behalf of its members to enable consumers of limited economic means to connect to and maintain affordable water, electric, heating and telecommunication services.

5. CAUSE-PA membership is open to low and moderate income individuals residing in the Commonwealth of Pennsylvania who are committed to the goal of helping economically vulnerable households to maintain affordable access to utility services and achieve economic independence and family well-being.

6. CAUSE-PA is located, c/o the Pennsylvania Legal Aid Network, at 118 Locust Street, Harrisburg, PA 17101.

7. CAUSE-PA was an active and interested party to the underlying proceeding, and a signatory party to the Joint Settlement at issue in this Complaint.

8. As a signatory party to the Joint Settlement, CAUSE-PA has a direct and substantial interest in this proceeding to protect its legal rights related thereto.

9. Moreover, several members of CAUSE-PA are customers of PECO and have or will experience a direct financial impact as a result of PECO’s failure to adhere to the terms of the Joint

Settlement.³ PECO's failure to reduce its maximum energy burden consistent with the terms of the Joint Settlement has or will cause harm to low income members of CAUSE-PA, exacerbating persistent levels of unaffordability within PECO's CAP.

10. CAUSE-PA has standing to intervene because at least one member has or will suffer a direct, immediate, and substantial injury to an interest as a result of this proceeding. See Energy Cons. Council of Pa., 995 A.2d at 476.

11. CAUSE-PA is represented in this proceeding by:

Elizabeth R. Marx, Esquire
Ria Pereira, Esq.
John Sweet, Esquire
Pennsylvania Utility Law Project
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Counsel for CAUSE-PA consents to the service of documents by electronic mail to pulp@palegalaid.net, as provided in 52 Pa. Code § 1.54(b)(3).

ANSWER

12. As TURN alleges in its Complaint, the plain language of the Joint Settlement at issue in this proceeding provides: "If the Commission changes the energy burden ranges set forth in its Policy Statement, PECO will utilize the new maximum allowable energy burden for each poverty level." (Complaint at para. 29).⁴

13. Along with TURN, CAUSE-PA was an active party to the extensive negotiations in this proceeding to arrive at a carefully balanced resolution that was memorialized in careful detail

³ Sonia Brookins, Bruce Perry, and Jahala McLendon are customers of PECO and members of CAUSE-PA.

⁴ PECO Energy Company Universal Service and Energy Conservation Plan for 2013-2015 Submitted in Compliance with 52 Pa. Code §§ 54.74 and 62.4, Joint Petition for Settlement, Docket No. M-2012-2290911, at Exhibit A, p. 2, n.3 (filed March 20, 2015).

in the Joint Settlement.

14. PECO's agreement to later reduce its applicable energy burden standard if and when the Commission acted to modify its CAP Policy Statement was a substantial motivating factor in CAUSE-PA's decision to forego further litigation and join as a signatory party to the Joint Settlement.

15. On November 5, 2019, the Commission issued a Final Policy Statement and Order at Docket No. M-2019-3012599, which revised the Commission's CAP Policy Statement to – in relevant part – reduce the maximum applicable CAP energy burden standards.⁵

16. Upon entry of the Commission's November 5, 2019 Final Policy Statement and Order, PECO was under an explicit, unambiguous settlement obligation to “utilize the new maximum allowable energy burden for each poverty level,” consistent with the Commission's revised CAP Policy Statement.⁶

17. Nothing in the text of the Joint Settlement contemplated any additional procedures, filings, or delay for this settlement obligation to take effect. Rather, the plain text of the Joint Settlement, approved by the Commission, required PECO to begin utilizing the new standards immediately upon the Commission's adoption of revised energy burden standards.⁷ Thus, PECO's delay in implementing the agreed-to changes to its applicable CAP energy burden standards is unwarranted, and must be promptly and fully remedied.

18. PECO's continued delay in its compliance with the terms of the Joint Settlement has caused ongoing financial harm to PECO's CAP customers, who have received bills in excess of

⁵ 2019 Amendments to Policy Statement on Customer Assistance Program, 52 Pa. Code § 69.261-69.267, Final Policy Statement and Order, Docket No. M-2019-3012599 (order entered Nov. 5, 2019).

⁶ PECO Energy Company Universal Service and Energy Conservation Plan for 2013-2015 Submitted in Compliance with 52 Pa. Code §§ 54.74 and 62.4, Joint Petition for Settlement, Docket No. M-2012-2290911, at Exhibit A, p. 2, n.3 (filed March 20, 2015).

⁷ Id.

the Commission's revised energy burden standards for nearly 11 months. This harm is particularly acute in light of the economic devastation associated with the global COVID-19 pandemic, which continues to have a disproportionate financial and health impact on low income communities – especially communities of color.

CONCLUSION

WHEREFORE, CAUSE-PA respectfully requests that the Commission:

- (1) Grant the relief requested in TURN's Complaint to require PECO to reduce the maximum applicable energy burden threshold for CAP customers, retroactive to the date of the Commission's Final Policy Statement and Order; and
- (2) Enter an order granting CAUSE-PA full status as an intervener in this proceeding with active party status.

Respectfully submitted,

PENNSYLVANIA UTILITY LAW PROJECT
Counsel for CAUSE-PA



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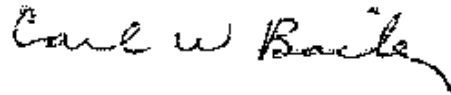
Fax: 717-233-4088

pulp@palegalaid.net

Date: September 14, 2020

Verification

I, Carl W. Bailey, a member of the Executive Committee of the Coalition for Affordable Utility Services and Energy Efficiency (“CAUSE-PA”), on behalf of CAUSE-PA, hereby state that the facts contained in the foregoing pleading are true and correct to the best of my knowledge, information and belief, that I am duly authorized to make this Verification, and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 10 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).



Carl W. Bailey, On behalf of the Executive Committee of
the Coalition for Affordable Utility Services and Energy
Efficiency in Pennsylvania (CAUSE-PA)

Date: September 14, 2020