

Jennedy S. Johnson
Assistant General Counsel
2301 Market Street / S23-1
Philadelphia, PA 19103

Direct Dial: 215-841-4353
Email: Jennedy.Johnson@exeloncorp.com

September 25, 2020

VIA eFILING

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

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

Dear Secretary Chiavetta:

Enclosed for filing in the above-referenced matter is the **Motion to Stay of PECO Energy Company** (the "Motion"). Copies of the Motion have been served in accordance with the enclosed Certificate of Service.

If you have any questions, please do not hesitate to contact me.

Very truly yours,



Jennedy S. Johnson

Enclosures

c: Per Certificate of Service (w/encls.)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

| | | |
|------------------------------------|---|----------------------------------|
| TENANT UNION REPRESENTATIVE | : | |
| NETWORK | : | |
| | : | |
| v. | : | Docket No. C-2020-3021557 |
| | : | |
| PECO ENERGY COMPANY | : | |

CERTIFICATE OF SERVICE

I hereby certify and affirm that I have this day served a copy of the **Motion to Stay of PECO Energy Company** in the above-referenced proceeding on the following persons, in the manner specified below, in accordance with the requirements of 52 Pa. Code § 1.54:

VIA ELECTRONIC MAIL

Joline R. Price
Robert W. Ballenger
Josie B. H. Pickens
Community Legal Services, Inc.
1424 Chestnut Street
Philadelphia, PA 19102
jprice@clsphila.org
rballenger@clsphila.org
jpickens@clsphila.org
Counsel for TURN

Tanya J. McCloskey
Acting Consumer Advocate
Christy M. Appleby
Assistant Consumer Advocate
Office of Consumer Advocate
Forum Place, 5th Floor
555 Walnut Street
Harrisburg, PA 17101-1923
tmccloskey@paoca.org
cappleby@paoca.org

Elizabeth R. Marx
John W. Sweet
Ria M. Pereira
Pennsylvania Utility Law Project
118 Locust Street
Harrisburg, PA 17101
pulp@palegalaid.net
Counsel for CAUSE-PA

Steven C. Gray
Senior Supervising
Assistant Small Business Advocate
Commonwealth of Pennsylvania
Office of Small Business Advocate
555 Walnut Street, 1st Floor
Harrisburg, PA 17101
sgray@pa.gov



Kenneth M. Kulak (PA I.D. No. 75509)
Catherine G. Vasudevan (PA I.D. No. 210254)
Morgan, Lewis & Bockius LLP
1701 Market Street
Philadelphia, PA 19103-2921
215.963.5384 (bus)
215.963.5001 (fax)
ken.kulak@morganlewis.com
catherine.vasudevan@morganlewis.com

Dated: September 25, 2020

Counsel for PECO Energy Company

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**TENANT UNION REPRESENTATIVE :
NETWORK :
 V. : DOCKET NO. C-2020-3021557
PECO ENERGY COMPANY :**

NOTICE TO PLEAD

Pursuant to 52 Pa. Code § 5.103(b), you are hereby notified that you have 20 days to file an Answer to PECO Energy Company’s Motion to Stay. All pleadings, including answers, must be filed with the Secretary’s Bureau of the Pennsylvania Public Utility Commission, with a copy served to PECO Energy Company, and to any Administrative Law Judge assigned to the proceeding.

**Pleadings Should Be Electronically Filed
With The Pennsylvania Public Utility Commission:**

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

With Required Copy to:

Anthony E. Gay (Pa. No. 74624)
Jack R. Garfinkle (Pa. No. 81892)
Jennedy S. Johnson (Pa. No. 203098)
PECO Energy Company
2301 Market Street
P.O. Box 8699
Philadelphia, PA 19101-8699
Phone: 215.841.4353
Fax: 215.568.3389
anthony.gay@exeloncorp.com
jack.garfinkle@exeloncorp.com
jennedy.johnson@exeloncorp.com

Kenneth M. Kulak (Pa. No. 75509)
Catherine G. Vasudevan (Pa. No. 210254)
Morgan, Lewis & Bockius LLP
1701 Market Street
Philadelphia, PA 19103-2921
Phone: 215.963.5952
Fax: 215.963.5001
ken.kulak@morganlewis.com
catherine.vasudevan@morganlewis.com



Kenneth M. Kulak (Pa. No. 75509)
Catherine G. Vasudevan (Pa. No. 210254)
Morgan, Lewis & Bockius LLP
1701 Market Street
Philadelphia, PA 19103-2921
Phone: 215.963.5952
Fax: 215.963.5001
ken.kulak@morganlewis.com
catherine.vasudevan@morganlewis.com

September 25, 2020

Counsel for PECO Energy Company

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

TENANT UNION REPRESENTATIVE :
NETWORK :
 V. : **DOCKET NO. C-2020-3021557**
PECO ENERGY COMPANY :

MOTION TO STAY OF PECO ENERGY COMPANY

Pursuant to 52 Pa. Code § 5.103, PECO Energy Company (“PECO” or the “Company”) hereby files this Motion to Stay the formal complaint proceeding at Docket No. C-2020-3021557 pending the disposition of PECO’s Petition for approval of an amendment to its proposed 2019-2024 Universal Service and Energy Conservation Plan (“USECP”) at Docket No. M-2018-3005795. The Petition was filed contemporaneously with this Motion and seeks the approval of the Pennsylvania Public Utility Commission (the “Commission”) to utilize the energy burdens (“EBs”) from the Commission’s revised CAP Policy Statement¹ (see 52 Pa. Code §69.265(2)(i)) as part of PECO’s Customer Assistance Program Fixed Credit Option (the “CAP FCO”) until the Company transitions from the CAP FCO to its proposed Percent of Income Payment Plan (the “CAP PIPP”). In support of this Motion, PECO represents the following:

¹ *2019 Amendments to Policy Statement on Customer Assistance Program*, 52 Pa. Code § 69.261–69.267, Docket No. M-2019-3012599 (Order entered Nov. 5, 2019) (the “Revised Policy Statement”). The Revised Policy Statement became effective on March 21, 2020 upon publication in the *Pennsylvania Bulletin*. See 50 Pa. B. No. 12 at 1691-1695 (Mar. 21, 2020).

I. BACKGROUND

1. On August 26, 2020, PECO was served with the Formal Complaint of the Tenant Union Representative Network (“TURN”) which addresses the EBs being used by the Company as part of its CAP FCO.

2. TURN alleges, among other things, that PECO is in violation of the Commission-approved settlement² (the “Settlement”) that created the CAP FCO because the CAP FCO does not currently utilize, and the Company has not proposed to utilize, the revised EBs that are a part of the Revised Policy Statement. TURN seeks implementation of the revised EBs as part of the CAP FCO both retroactively and prospectively.

3. TURN and the Action Alliance of Senior Citizens of Greater Philadelphia (collectively, “TURN et al.”) made a similar argument and request for relief in their July 28, 2020 Answer in response to the Company’s proposed 2019-2024 USECP at Docket No. M-2018-3005795. TURN et al. recognized that the Commission would be considering how PECO would be applying EBs during the period in which PECO transitions from the FCO to a PIPP: “This provision exists in PECO’s currently active USECP as well – however, to TURN et al.’s knowledge, PECO continues to use the old energy burdens in its FCO calculations, in violation of the Settlement creating the FCO and the terms of the current USECP. **As such, it is imperative that the Commission ensure in approving PECO’s Amended USECP that**

² See *PECO Universal Service and Energy Conservation Plan for 2013-2015 Submitted in Compliance with 52 Pa. Code §§ 54.74 and 62.4*, Docket No. M-2012-2290911 (Order entered July 8, 2015).

PECO uses the CAP Policy Statement energy burdens for the period of time that it continues to operate the FCO under the Amended USECP.”³

4. On September 15, 2020, PECO filed an Answer to the TURN Complaint which provided a detailed history of the Company’s efforts to comprehensively address affordability issues with the CAP FCO and incorporate provisions of the Revised Policy Statement.⁴

Significantly, on July 8, 2020, PECO filed an amended proposed 2019-2024 USECP which included a transition from the CAP FCO to a CAP PIPP model no later than eight months after Commission approval of the 2019-2024 USECP.⁵

5. The Company’s Answer to the TURN Complaint further stated that while PECO believes it has satisfied its FCO-related obligations under the Settlement by filing the July 8, 2020 comprehensive CAP proposal, the Company planned to shortly file a proposal with the Commission to utilize the EBs in the Revised Policy Statement for the period the CAP FCO is still in place.

6. On September 25, 2020, PECO filed a Petition in its proposed 2019-2024 USECP docket seeking Commission approval to utilize the EBs in the Revised Policy Statement in the CAP FCO until the Company transitions to the CAP PIPP (the “EB Proposal”).

7. In the Petition, PECO requests Commission approval of the EB Proposal by the Commission’s November 19, 2020 Public Meeting. The Company further explains that it is

³ TURN et al Answer, Docket No. M-2018-3005795, p. 12, n. 35 (emphasis added).

⁴ See Answer of PECO Energy Company to the Complaint filed by the Tenant Union Representative Network, pp. 1-7.

⁵ See Docket No. M-2018-3005795.

prepared to utilize the revised EBs as part of the CAP FCO beginning with bills issued in the first full billing cycle after receipt of final Commission approval.

II. STAYING THIS PROCEEDING WILL PROMOTE ADMINISTRATIVE EFFICIENCY

12. TURN has asked the Commission to require the CAP FCO to utilize the EBs in the Revised Policy Statement in both this proceeding and the proceeding dedicated to PECO's proposed 2019-2024 USECP at Docket No. M-2018-3005795.

13. Contemporaneous with this Motion, PECO has filed a Petition at Docket No. M-2018-3005795 requesting permission to utilize the EBs in the Revised Policy Statement in the CAP FCO until the Company transitions to the CAP PIPP.

14. PECO submits that staying this proceeding pending the Commission's disposition of the Petition at Docket No. M-2018-3005795 will promote administrative efficiency and reduce unnecessary expenditure of time and resources on duplicative filings. The Commission's findings about whether PECO should implement the EB Proposal will be relevant to TURN's requests in this proceeding that PECO implement the revised EBs.

III. CONCLUSION

Based upon the foregoing, PECO respectfully requests that the Commission grant the Company's Motion to Stay this proceeding pending Commission disposition of PECO's proposal at Docket No. M-2018-3005795 to utilize the EBs from the Revised Policy Statement for the remaining term of the CAP FCO.

Respectfully submitted,



Anthony E. Gay (Pa. No. 74624)
Jack R. Garfinkle (Pa. No. 81892)
Jennedy S. Johnson (Pa. No. 203098)
PECO Energy Company
2301 Market Street
P.O. Box 8699
Philadelphia, PA 19101-8699
Phone: 215.841.4353
Fax: 215.568.3389
anthony.gay@exeloncorp.com
jack.garfinkle@exeloncorp.com
jennedy.johnson@exeloncorp.com

Kenneth M. Kulak (Pa. No. 75509)
Catherine G. Vasudevan (Pa. No. 210254)
Morgan, Lewis & Bockius LLP
1701 Market Street
Philadelphia, PA 19103-2921
Phone: 215.963.5952
Fax: 215.963.5001
ken.kulak@morganlewis.com
catherine.vasudevan@morganlewis.com

September 25, 2020

Counsel for PECO Energy Company