



October 15, 2020

Via Efiling

Rosemary Chiavetta, Secretary
PA Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Petition of PECO Energy Company for Approval of an Amendment to Its Proposed Universal Service and Energy Conservation Plan, Docket No. P-2020-3022154

Dear Secretary Chiavetta:

Enclosed for electronic filing please find the Answer of the Tenant Union Representative Network and Action Alliance of Senior Citizens of Greater Philadelphia to the Petition of PECO Energy Company for Approval of an Amendment to Its Proposed Universal Service and Energy Conservation Plan in the above referenced proceeding.

Due to the ongoing COVID-19 pandemic, a copy of this Answer is being served via email, as indicated on the attached Certificate of Service.

Sincerely,

Kintéshia S. Scott, Esquire
Attorney ID: 328600

Enclosures

Cc: Certificate of Service
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BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

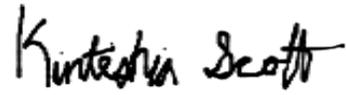
Petition of PECO Energy Company for :
Approval of an Amendment to Its Proposed : Docket No. P-2020-3022154
Universal Service and Energy Conservation :
Plan :

CERTIFICATE OF SERVICE

I hereby certify that I have, on this day, served copies of the **Answer of the Tenant Union Representative Network and Action Alliance of Senior Citizens of Greater Philadelphia** in the above captioned matter upon the following persons and in accordance with the requirements of 52 Pa. Code § 1.54.

SERVICE BY EMAIL ONLY	
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Respectfully submitted,

A handwritten signature in black ink that reads "Kinteshia Scott". The signature is written in a cursive style with a large initial 'K' and a distinct 'S'.

October 15, 2020

Kinteshia S. Scott, Esquire (Attorney ID: 328600)
Community Legal Services, Inc.
1424 Chestnut Street
Philadelphia, PA 19102

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of PECO Energy Company for :
Approval of an Amendment to Its Proposed : **Docket No. P-2020-3022154**
Universal Service and Energy Conservation :
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**ANSWER OF THE TENANT UNION REPRESENTATIVE NETWORK
AND ACTION ALLIANCE OF SENIOR CITIZENS OF GREATER
PHILADELPHIA (TURN ET AL.)**

Counsel for TURN et al.

October 15, 2020

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of PECO Energy Company for :
Approval of an Amendment to Its Proposed : **Docket No. P-2020-3022154**
Universal Service and Energy Conservation :
Plan :

**ANSWER OF TENANT UNION REPRESENTATIVE NETWORK AND ACTION
ALLIANCE OF SENIOR CITIZENS OF GREATER PHILADELPHIA (TURN ET AL.)
TO THE PETITION OF PECO ENERGY COMPANY**

I. INTRODUCTION AND BACKGROUND

Pursuant to the provisions of the Rules of Practice and Procedure of the Pennsylvania Public Utility Commission (“PUC” or the “Commission”), 52 Pa. Code §§ 5.61(e), 5.71-.76, the Tenant Union Representative Network (“TURN”) and Action Alliance of Senior Citizens of Greater Philadelphia (“Action Alliance”)(collectively “TURN *et al.*”), by and through their counsel, Community Legal Services, Inc., hereby file this Answer to the Petition of PECO Energy Company (“PECO” or “Company”) for approval of an amendment to its proposed 2019-2024 Universal Service and Energy Conservation Plan (“Amended USECP”). The Amended USECP was filed on July 8, 2020, docketed as a Petition at P-2020-3020727. On September 25, 2020, PECO filed a Petition for approval of an amendment to its Amended USECP. This Petition was separately docketed at P-2020-3022154. In its Petition, PECO requests that the Commission provide final approval for the Company to utilize the energy burdens set forth in the Commission’s revised CAP Policy Statement¹ as a part of its current Customer Assistance Program (CAP) fixed credit option payment plan (FCO) until PECO transitions to a percentage of income payment plan (PIPP).

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).

TURN *et al.* support the use of energy burdens in accordance with the current CAP Policy Statement in PECO's FCO calculation. As noted in their July 28, 2020 Answer (TURN *et al.* Answer)², it is TURN *et al.*'s position that Addendum C to PECO's Proposed USECP already requires PECO to use the current energy burdens as set forth in the CAP Policy Statement while continuing to operate its CAP FCO. TURN *et al.* Answer at ¶34. As such, TURN *et al.* recommends that the Commission dismiss PECO's Petition and issue a Secretarial Letter directing PECO to implement the energy burdens. In support thereof, TURN *et al.* answers PECO's Petition as follows:

1. Admitted.
2. Admitted.
3. Admitted.
4. Admitted. By way of further answer, on November 26, 2019, PECO submitted a revised USECP, extending the effective date of its pending proposed USECP to 2024.
5. Admitted. By way of further answer, the APPRISE report found that during calendar years 2017 and 2018, approximately 80% of the customers with household income at or below 50% of FPL who received unaffordable bills had an average "depth" of unaffordability of approximately \$800 per year.³
6. Admitted that PECO's letter so stated.
7. Denied. TURN *et al.* deny that the Commission entered a Final Policy Statement and Order on November 15, 2019. TURN *et al.* are without sufficient information to form a belief as to whether PECO was carrying out the described FCO action plan on November

² TURN *et al.* Answer, Docket Nos. M-2018-3005795 and P-2020-3020727, (Filed July 28, 2020).

³ APPRISE PECO Energy Universal Services Program Final Evaluation Report (June 2019), Docket Nos. M-2012-2290911 & M-2015-2507139.

15, 2019, and so that statement is denied. By way of further answer, the Commission entered a Final Policy Statement and Order on November 5, 2019 (the “November 5th Order”), approving amendments to the CAP Policy Statement, and among other things, updating the maximum allowable energy burdens for income tiers between 0-150% of Federal Poverty Income Guidelines (“FPIG”).⁴ TURN *et al.* deny that the Commission’s November 5th Order directed “PECO and other utilities to make filings to implement the policy changes in the Revised Policy Statement.” In the November 5th Order, the Commission directed each utility to file and serve addendums to their respective pending or existing Universal Service and Energy Conservation Plan (“USECP”) dockets within 60 days of entry date of the November 5th Order to indicate if the utility was already compliant with provisions of the Revised CAP Policy Statement and, if not, whether and how the company intended to implement policy changes in accordance with the Revised CAP Policy Statement.⁵

8. Admitted in part, denied in part. The Revised CAP Policy Statement was adopted by the Commission on November 5, 2019 and was published in the Pennsylvania Bulletin on March 21, 2020. By way of further answer and background, on November 20, 2019, the Energy Association of Pennsylvania (“EAP”) and the Office of Consumer Advocate (“OCA”), on separate grounds, filed Petitions for Reconsideration of the November 5th Order. EAP also filed a Petition to Stay certain portions of the November 5th Order until resolution of its Petition for Reconsideration. The Stay was granted on November 25,

⁴ 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), at pp. 101-107.

⁵ Id.

2019. On November 26, 2019, PECO submitted a revised USECP for the period 2019-2024.

On February 6, 2020, the Commission entered orders on the two separate Petitions for Reconsideration. The Commission, in its order on the EAP Petition for Reconsideration, clarified that full compliance with the Commission's amended CAP Policy Statement was voluntary under the terms of the November 5th Order.⁶ Each utility was directed to file and serve a cover letter and addendum to their current plan 15 days from the date of the February 6th Order.

9. Admitted in part, denied in part. Admitted that PECO filed a letter on March 26, 2020. TURN *et al.* deny that PECO's letter stated its "intention to make a single filing in which it would address the issues raised in the APPRISE Evaluation and the remaining provisions of the Commission's Revised Policy Statement." By way of further answer, PECO's letter stated PECO plans "to file its CAP revisions no later than the end of June 2020."
10. Admitted in part, denied in part. TURN *et al.* admit that PECO held a series of calls with stakeholders in April and May, including counsel for TURN *et al.*, and that a transition to a PIPP from an FCO was a subject discussed at those meetings. It is further admitted that PECO filed a letter with the Commission on June 30, 2020. TURN *et al.* are without sufficient information to form a belief as to PECO's intentions, and so that statement is denied.

⁶ While the CAP Policy Statement itself is not binding on PECO, the FCO Settlement and PECO's current USECP require PECO to implement the revised energy burdens automatically. See PECO Energy Company's Joint Petition for Settlement, Exhibit A, PECO's Mediation Settlement Term Sheet at p. 2, Docket No. M-2012-2290911 (Filed March 20, 2015). See also PECO's Amended Proposed 2019-2024 Universal Service and Energy Conservation Plan, Docket No. M-2018-3005795 (filed July 8, 2020).

11. Admitted that on July 8, 2020, PECO submitted its proposed Amended USECP for program years 2019-2024 (Amended USECP), which was docketed with the Commission as a formal Petition at P-2020-3020727. By way of further answer, through its proposed Amended USECP, PECO is seeking approval to implement a number of proposed changes to its currently pending USECP, many, though not all, of which are consistent with the Commission's revised CAP Policy Statement. The proposed Amended USECP filing includes, among other proposed changes, a proposal for a transition of the Company's CAP from the FCO to the PIPP model no later than eight months after the Commission's approval of the 2019-2024 USECP. It is not yet certain when and whether approval of the proposed Amended USECP will occur.

12. Denied. TURN and the Action Alliance of Senior Citizens of Greater Philadelphia (collectively, "TURN *et al.*") did not send a letter to PECO on July 17, 2020. By way of further answer, counsel for TURN sent a letter to PECO on July 17, 2020,⁷ to PECO to ascertain the date by which the Company intended to revise the maximum allowable energy burden levels for CAP customers consistent with Commission approved changes to the energy burden ranges set forth in the Commission's CAP Policy Statement, and in compliance with the terms of the Commission-approved FCO Settlement. The letter further enumerated actions that the Company could take to restore compliance with the Settlement.

13. Admitted. By way of further answer, TURN *et al.*'s Answer to PECO's proposed amended USECP was generally supportive of many aspects of the proposed Amended

⁷ Community Legal Services is representing TURN and the Action Alliance of Senior Citizens of Greater Philadelphia (collectively, "TURN *et al.*") in PECO's proposed USECP proceeding at Docket No. M-2018-300579 and in this related Petition to Amend. Community Legal Services is representing TURN in a separate Formal Complaint proceeding to enforce the terms of the Settlement.

USECP, but expressed that further inquiry would be necessary to address a number of questions in the Amended USECP. TURN *et al.* Answer at ¶ 23-24. In its Answer, TURN *et al.* stated strong support of a number of critical aspects of PECO's proposal, including its proposal to transition from the FCO to the PIPP, and its proposal to reduce the applicable maximum energy burden for PECO CAP participants with income between 0-100% FPL. TURN *et al.* Answer at ¶ 27-30. At the same time, TURN *et al.* also stated a number of concerns with the Company's proposals, including PECO's failure to reduce the maximum energy burden for households between 101-150% FPL. TURN *et al.* Answer at ¶ 30. TURN *et al.* also identified PECO's ongoing violation of the FCO Settlement and reiterated that the FCO Settlement and current USECP require automatic implementation of the current CAP Policy Statement Energy Burdens. TURN *et al.* Answer at ¶ 31. TURN *et al.* requested that PECO's Amended USECP be referred to the Office of Administrative Law Judge (OALJ) for a full and complete evaluation. TURN *et al.* Answer at ¶ 42.

14. Admitted in part, denied in part. It is admitted that TURN *et al.*'s Answer to PECO's proposed Amended USECP includes the quoted language. However, the Settlement requires PECO to utilize the energy burdens in the CAP Policy Statement.⁸ While it is admitted that the Commission will also consider PECO's application of the energy burdens in the context of the proposed Amended USECP, TURN *et al.* submit that PECO has an obligation to implement the revised energy burdens under its *current* CAP FCO calculations in accordance with the terms of the Settlement and its current USECP.

15. Admitted.

⁸ See PECO Energy Company's Joint Petition for Settlement, Exhibit A, PECO's Mediation Settlement Term Sheet at p. 2, Docket No. M-2012-2290911 (Filed March 20, 2015).

16. Admitted in part, denied in part. By way of further answer, on August 25, 2020 TURN filed and served PECO with the Formal Complaint of TURN alleging, among other things, that PECO was in violation of the Settlement by failing to implement the revised energy burdens as part of the CAP FCO.⁹ As set forth in the Complaint, TURN seeks the following relief:

- A. Find that PECO violated the terms of the Commission approved Settlement at Docket Number M-2012-2290911.
- B. Find that PECO violated its USECP at Docket Number M-2015-2507139.
- C. Find that PECO's violation(s) of its USECP constitute unreasonable service in violation of 66 Pa. C.S. §1501.
- D. Order PECO to implement the energy burdens in the Commission's CAP Policy Statement as required by the Settlement and PECO's USECP.
- E. Order PECO to retroactively calculate CAP Credits for all CAP customers back to the date the Commission approved the new energy burdens, and provide bill credits to CAP customers or reduce past-due balances as appropriate.
- F. Order PECO to provide retroactive arrearage forgiveness for all partial payments that would have satisfied full payment under the revised bills.
- G. Require PECO to make any necessary filing with the Commission to effectuate the implementation of the energy burdens in the Commission's CAP Policy Statement and the relief requested herein.
- H. Fine PECO for its willful violation of a Commission approved Settlement.

⁹ TURN served PECO on August 25, 2020 with the Formal Complaint. PECO was served with the Formal Complaint by the Commission on August 26, 2020.

- I. Grant any other such relief as is just and appropriate.¹⁰
17. Admitted.
18. Admitted that on September 15, 2020, PECO filed an Answer to TURN's Formal Complaint at Docket No. C-2020-3021557. By way of further answer, TURN filed preliminary objections to PECO's Answer on October 5, 2020, contending that PECO's inclusion of a lengthy narrative statement seeking to support its contention that it had satisfied its FCO-related obligations in the Settlement, violated the Commission's regulations.¹¹
19. Admitted that PECO's Answer announced its intention to file a proposal to utilize the revised energy burdens in the FCO. By way of further answer, TURN filed preliminary objections to PECO's Answer on October 5, 2020, contending that PECO's inclusion of a lengthy narrative statement in which this announcement was presented, violated the Commission's regulations.¹²
20. Admitted.
21. Admitted that PECO is making such a proposal.¹³
22. Denied. The language of Addendum C, in PECO's current USECP at Docket No. M-2015-2507139 and in its Amended USECP, already requires PECO to utilize the CAP Policy Statement Energy Burdens in its CAP FCO. By way of further answer, although

¹⁰ See TURN Formal Complaint at 16-17, Docket No. C-2020-3021557.

¹¹ Preliminary Objection of TURN to the Answer of PECO Energy Company, TURN v. PECO, Docket No. C-2020-3021557 (filed October 5, 2020).

¹² Preliminary Objection of TURN to the Answer of PECO Energy Company, TURN v. PECO, Docket No. C-2020-3021557 (filed October 5, 2020).

¹³ While PECO filed this Petition at the docket for its pending Amended USECP, PECO is requesting Commission approval for this proposal to start prior to Commission approval of the full USECP. See Petition at 1 ("PECO requests that the Commission provide the Company with final approval to implement the EB Proposal by the Commission's November 19, 2020 Public Meeting. PECO is 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.").

the proposed Amended USECP is currently pending before the Commission, there is no date certain for when Commission approval would occur, nor is such approval certain. Commission approval of this Petition is unnecessary. A Formal Complaint concerning PECO's ongoing violation of the Settlement and its current USECP is pending at Docket No. C-2020-3021557.

23. Admitted that PECO's proposal is to update Addendum C as stated. TURN *et al.* support this update, but reiterate that PECO is already required by the language of Addendum C to its current USECP and pending Amended USECP to utilize the new maximum allowable energy burden for each poverty level set forth in the Commission's CAP Policy Statement.¹⁴

24. No paragraph 24 exists in PECO's Petition.

25. No paragraph 25 exists in PECO's Petition.

26. No paragraph 26 exists in PECO's Petition.

27. Admitted in part, denied in part. It is admitted that PECO attached to its Petition Addendum H to provide its forecasted increase to the CAP shortfall amount if the Company implements the CAP Policy Statement Energy Burdens. TURN *et al.* is without sufficient information to form a belief as to the accuracy of PECO's calculations,

¹⁴ The full language in Addendum C sets forth a table with energy burdens to be used in the FCO and states that "The table is based upon the ranges found at 52 Pa. Code §69.265 (2)(i)(A). In each case the energy burden listed in the table is the maximum allowable energy burden for that poverty level. **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.**" See PECO Energy Company Universal Service and Energy Conservation Plan for 2016-2018, Docket No. M-2015-2507139 (Filed October 1, 2015) (emphasis added). *See also* PECO Energy Company Amended Proposed 2019-2024 Universal Service and Energy Conservation Plan, Docket No. M-2018-3005795 (filed July 8, 2020).

for which no supporting material or calculations have been supplied, and so that statement is denied.

28. Admitted in part, denied in part. It is admitted that PECO is required to apply the revised energy burdens retroactively to November 5, 2019. It is denied that PECO requires further Commission approval to do so. By way of further answer, PECO has a current obligation, pursuant to the 2015 CAP FCO Settlement and its current USECP, to implement the CAP Policy Statement energy burdens and that obligation has existed since November 5, 2019.¹⁵

29. Admitted.

II. CONCLUSION

Based upon the foregoing, TURN *et al.* maintain that the Commission does not need to act on PECO's Petition to Amend its proposed USECP because PECO is required to utilize the Commission's revised energy burdens in calculating CAP FCO bills. TURN *et al.* respectfully request that the Commission dismiss PECO's Petition and issue a Secretarial Letter directing PECO to implement the energy burdens.

¹⁵ The 2015 FCO Settlement states that "[i]f 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." See PECO Energy Company's Joint Petition for Settlement, Exhibit A, PECO's Mediation Settlement Term Sheet at p. 2, Docket No. M-2012-2290911 (Filed March 20, 2015).

Respectfully submitted,

Kinteshia Scott

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