



October 19, 2020

Via Efiling

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

**Re: Tenant Union Representative Network (TURN) v. PECO Energy Company,
Docket No. C-2020-3021557**

Dear Secretary Chiavetta:

Enclosed for electronic filing please find the Prehearing Memorandum of the Tenant Union Representative Network in the above-referenced case.

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

Sincerely,

Josie B. H. Pickens, Esquire
Attorney ID No. 309422

Enclosures

Cc: Certificate of Service
Administrative Law Judge Mary D. Long (via email to malong@pa.gov)

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North Philadelphia Law Center: 1410 West Erie Ave. | Philadelphia, PA 19140-4136 | Telephone: 215-227-2400

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

| | | |
|-------------------------------------|---|----------------|
| Tenant Union Representative Network | : | |
| | : | |
| v. | : | C-2020-3021557 |
| | : | |
| PECO Energy Company | : | |

Prehearing Memorandum of the Tenant Union Representative Network

On September 28, 2020, Administrative Law Judge Mary D. Long issued a Prehearing Conference Order setting a telephonic prehearing conference for Tuesday, October 20, 2020 at 10:00am, and requiring each party to file a Prehearing Memorandum no later than 12:00 pm on Monday, October 19, 2020. In response, the Tenant Union Representative Network (“TURN”), through its attorneys at Community Legal Services, Inc., hereby files this Prehearing Conference Memorandum.

I. Background

On August 25, 2020, TURN filed a Formal Complaint against PECO Energy Company (“PECO”) seeking relief from the Commission to enforce the terms of the Settlement Agreement in the matter of PECO Energy Company Universal Service and Energy Conservation Plan for 2013-2015, Docket No. M-2012-2290911, which requires PECO to utilize the energy burdens set forth in the Commission’s Customer Assistance Program (“CAP”) Policy Statement in calculating bills for customers enrolled in PECO’s Fixed Credit Option Customer Assistance Program (“CAP FCO”). In its Formal Complaint, TURN asserts that PECO is in violation of the Settlement Agreement and its Universal Service and Energy Conservation Plan for 2013-2015 (“USECP”) because PECO has failed to implement the energy burdens set forth in the

Commission's CAP Policy Statement, as adopted on November 5, 2019 and published in the Pennsylvania Bulletin on March 21, 2020.

The Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania ("CAUSE-PA") filed a Petition to Intervene and Answer on September 14, 2020. PECO filed its Answer to TURN's Formal Complaint on September 15, 2020. The Office of Consumer Advocate ("OCA") filed a Notice of Intervention and Public Statement on September 23, 2020. TURN filed Preliminary Objections to PECO's Answer on October 5, 2020, in which it argued that PECO's Answer fails to deny specifically material allegations of TURN's Formal Complaint and PECO's Answer fails to conform to the pleading requirements imposed by Chapter 5 of the Commission's Regulations.

PECO filed a Motion to Stay this proceeding on September 25, 2020. The same day PECO also filed a Petition for Approval of an Amendment to its Proposed Universal Service and Energy Conservation Plan at Docket Number M-2018-3005795, which has been assigned to docket number P-2020-3022154 ("Petition to Amend"). TURN filed answers to PECO's Motion and Petition on October 15, 2020. Also on October 15, 2020, PECO filed an Answer to TURN's Preliminary Objections.

TURN has commenced discovery in this proceeding. TURN filed the Interrogatories and Requests for Admission of the Tenant Union Representative Network to PECO Energy Company, Set I on September 18, 2020. PECO provided timely responses to TURN Set I on October 8, 2020. TURN filed the Interrogatories of the Tenant Union Representative Network to PECO Energy Company, Set II on October 7, 2020. Responses to TURN Set II are due on October 27, 2020.

II. Issues to be Presented

TURN will examine the issues presented in its Formal Complaint and related issues raised by PECO in its Answer, Motion to Stay, and Petition to Amend its pending USECP.

Specifically TURN will examine:

1. Whether PECO is in violation of the Settlement Agreement by failing to adjust the energy burdens it uses to calculate bills for CAP FCO customers consistent with adjustments to the energy burdens set forth in the Commission's CAP Policy Statement.
2. Whether PECO is in violation of its current USECP by failing to adjust the energy burdens it uses to calculate bills for its CAP FCO customers consistent with adjustments to the energy burdens set forth in the Commission's CAP Policy Statement.
3. Whether PECO was required to adjust the energy burdens it uses to calculate bills for its CAP FCO customers on November 5, 2019, the date that the Commission adopted a revised CAP Policy Statement.
4. Whether PECO's proposal to amend its pending USECP satisfies PECO's obligations under the Settlement Agreement and PECO's current USECP.
5. Whether PECO's failure to comply with the Settlement Agreement and PECO's current USECP has resulted in PECO overcharging CAP FCO customers.
6. Whether PECO's failure to comply with the Settlement Agreement and PECO's current USECP resulted in other kinds of harm to CAP FCO customers, including but not limited to the unnecessary use of grant assistance and medical certification protections.
7. Whether PECO's violations of its USECP constitutes unreasonable service in violation of 66 Pa. C.S. §1501.

8. Whether PECO should be fined for its willful conduct in failing to implement a material term of the Settlement Agreement and PECO's current USECP.
9. Whether PECO is required 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.
10. Whether PECO is required to provide retroactive arrearage forgiveness for all partial payments that would have satisfied full payment under the revised bills.
11. Whether PECO is required to provide any other benefit to CAP FCO customers as a result of PECO's failure to fully comply with the Settlement Agreement and PECO's current USECP.

TURN reserves the right to examine any other issues that arise in the course of this proceeding.

III. Proposed Plan and Schedule of Discovery

TURN has commenced discovery in this proceeding and, to date, PECO has provided timely responses pursuant to 52 Pa. Code § 5.342. TURN does not propose any modifications to the Commission's discovery rules.

IV. Proposed Witnesses and Subject of Testimony

TURN has preliminarily identified the following witnesses:

1. Phil Lord
100 S Broad St #800
Philadelphia, PA 19110
phil.lord@ourturn.net

2. Stephanie Dorenbosch
100 S Broad St #800
Philadelphia, PA 19110
stephanie.dorenbosch@ourturn.net

Both witnesses can provide testimony on the nature of TURN and its membership. The witnesses can provide testimony regarding TURN's interest in and involvement in the USECP proceeding that gave rise to the Settlement Agreement. The witnesses can testify regarding TURN's reliance upon the terms of the Settlement Agreement, specifically the pass-through clause that automatically updates the energy burdens used in PECO's FCO.

TURN reserves the right to call additional witnesses as may be warranted, upon proper notice to Your Honor and the parties.

V. Proposed Litigation Schedule

TURN is prepared to work with Your Honor and the parties to establish a reasonable litigation schedule. TURN does not believe that the issues in this proceeding require a lengthy litigation process. TURN proposes that this matter be resolved as expeditiously as possible because PECO has yet to implement the Commission's new energy burdens and, as a result, PECO's CAP FCO customers continue to receive unaffordable bills during the middle of an historic pandemic. TURN believes that the issues presented in its Formal Complaint are primarily questions of law and that there are limited issues of fact to be resolved in this proceeding. In light of the ongoing COVID-19 pandemic, TURN submits that a telephonic or remote process should be established for any evidentiary hearings that are scheduled in this proceeding.

VI. Service on TURN

TURN is represented by the attorneys at Community Legal Services, Inc. Electronic service of all documents should be served on TURN as follows:

Joline R. Price, Esquire
Robert W. Ballenger, Esquire

Josie B. H. Pickens, Esquire
Kintéshia S. Scott, Esquire

COMMUNITY LEGAL SERVICES, INC.

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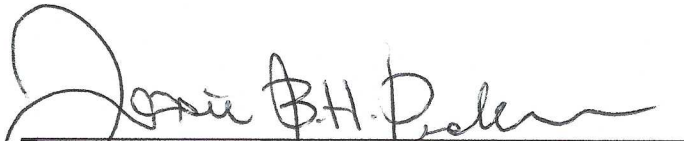
VII. Settlement

TURN is willing and ready to engage in settlement discussions with the parties in an attempt to resolve the issues in this proceeding.

VIII. Presentation at Prehearing Conference

Joline R. Price, Esq, will be the primary speaker for TURN for purposes of the prehearing conference.

Respectfully submitted,



Josie B. H. Pickens, Esquire (Attorney ID: 309422)
Joline R. Price, Esquire (Attorney ID: 315405)
Robert W. Ballenger, Esquire (Attorney ID: 93434)
Kintéshia S. Scott, Esquire (Attorney ID: 328600)

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| Complainant | : | |
| v. | : | Docket No. C-2020-3021557 |
| PECO Energy Company | : | |
| Respondent | : | |

Certificate of Service

I hereby certify that I have this day served copies of the Prehearing Memorandum of the Tenant Union Representative Network, upon the parties of record in the above captioned proceeding in accordance with the requirements of 52 Pa. Code §1.54 in the manner and upon the persons listed below.

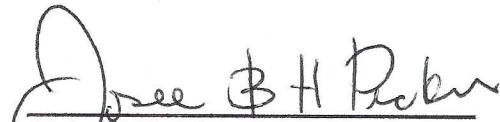
VIA ELECTRONIC MAIL

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