



October 19, 2020

VIA E-File

Honorable Mary D. Long
Administrative Law Judge
Pennsylvania Public Utility Commission
301 Fifth Ave., Suite 220
Pittsburgh, PA 15222
malong@pa.gov

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

Prehearing Memorandum of CAUSE-PA

Dear Secretary Chiavetta,

Please find the attached **Prehearing Memorandum of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA)** for filing in the above noted proceeding. Copies have been served electronically in accordance with the attached Certificate of Service.

Respectfully Submitted,
Counsel for CAUSE-PA

Elizabeth R. Marx, Esq.

CC: Certificate of Service
Secretary Rosemary Chiavetta, via efile

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

**PREHEARING MEMORANDUM
OF THE COALITION FOR AFFORDABLE UTILITY SERVICES
AND ENERGY EFFICIENCY IN PENNSYLVANIA**

On September 28, 2020, The Honorable Mary D. Long, Administrative Law Judge, issued a Prehearing Conference Order setting a telephonic prehearing conference for October 20, 2020 at 10:00 a.m. in the above captioned matter, and requiring the submission of a prehearing conference memorandum on or before noon on Monday, October 19, 2020. In response thereto, the Coalition for Affordable Utility Services and Energy Efficiency (CAUSE-PA), through its counsel at the Pennsylvania Utility Law Project, hereby files this Prehearing Conference Memorandum.

I. Background

On March 20, 2015, PECO, the Office of Consumer Advocate (OCA), the Tenant Union Representative Network and Action Alliance of Senior Citizens of Greater Philadelphia (TURN et al.), and the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA) filed a Joint Petition for Settlement in the PECO Energy Company Universal

Service and Energy Conservation Plan for 2013-2015.¹ This Settlement was approved by the Commission on July 8, 2015, and is memorialized in PECO's currently effective USECP.²

In relevant part, the Joint Petition for Settlement provided: "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."³

On November 5, 2019, the Commission entered a Final Policy Statement and Order at Docket No. M-2019-3012599 (November 5 Order), amending the Commission's Customer Assistance Program (CAP) Policy Statement at 52 Pa. Code §§ 69.261-.267.⁴ In its November 5 Order, the Commission found the current CAP energy burden standards were excessive and did not fulfill the Commission's statutory obligation to ensure that universal service programming is appropriately funded and accessible to low income customers.⁵ Accordingly, the Commission reduced the energy burden standards for customers enrolled in a utility-run CAP, setting a maximum combined energy burden of 10% for households with income between 51-150% of the Federal Poverty Level (FPL) and 6% for households with income between 0-50% FPL.⁶ For electric baseload (non-heating) customers, the maximum was set at 4% for customers with income between 51-150% FPL and 2% for customers with income between 0-50% FPL.⁷ In reducing the

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 (filed March 20, 2015).

² PECO Energy Company Universal Service and Energy Conservation Plan for 2013-2015 Submitted in Compliance with 52 Pa. Code §§ 54.74 and 62.4, Order, Docket No. M-2012-2290911 (July 8, 2015) (approving the June 11, 2015 Recommended Decision of ALJ Cynthia Williams Fordham); see also PECO Energy Company Universal Service & Energy Conservation Plan, 2016-2018, at Addendum B, page 30 of 54 (last amended February 17, 2017).

³ 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) (emphasis added).

⁴ 2019 Amendments to CAP Policy Statement, Final Policy Statement and Order, Docket No. M-2019-3012599, at 27 (order entered Nov. 5, 2019) (hereinafter November 5 Order).

⁵ November 5 Order at 27; see also Energy Affordability for Low-Income Customers, Docket No. M-2017-2587711, and Review of Universal Service and Energy Conservation Programs, Docket No. M-2017-2596907.

⁶ Id. at 32-33.

⁷ Id.

maximum energy burden standards, the Commission found that the existing maximum energy burden standards “do not reflect reasonable or affordable payments for many low-income customers” - especially for those with income at or below 50% FPL.⁸

On August 25, 2020, the Tenant Union Representative Network (TURN) filed a Formal Complaint against PECO Energy Company (PECO), seeking to enforce 2015 Joint Settlement to reduce PECO’s applicable energy burden thresholds consistent with the Commission’s revised CAP Policy Statement. CAUSE-PA filed an Answer to TURN’s Complaint on September 14, 2020, and OCA filed a Notice of Intervention on September 23, 2020.

On September 25, 2020, PECO filed a Motion to Stay in the instant proceeding, as well as a Petition for Approval of an Amendment to its Proposed Universal Service and Energy Conservation Plan at docket number M-2018-3005795.⁹ In its Petition to amend its USECP, PECO sought approval from the Commission to implement the Commission’s reduced energy burden standards pursuant to the 2015 Joint Settlement.¹⁰ Importantly, PECO relies on this separate Petition – filed the same day as its Motion to Stay – as the basis for its request to stay the prompt resolution of TURN’s Complaint. On October 15, 2020, CAUSE-PA filed an Answer to this separate Petition to amend PECO’s USECP.

II. Issues to be Presented

CAUSE-PA asserts that the primary issue in this proceeding is a legal question: Whether PECO is obligated to comply with the plain and unambiguous terms of the 2015 Joint Settlement, which required PECO to implement the Commission’s revised energy burden standards upon adoption of its final CAP Policy Statement. There are various issues related to this question that

⁸ Id. at 27, 29-30

⁹ Petition of PECO Energy Company for Approval of an Amendment to Its Proposed Universal Service and Energy Conservation Plan, Docket Nos. P-2020-3022154, M-2018-3005795 (filed Sept. 25, 2020).

¹⁰ Id.

require a factual inquiry, albeit limited, into the appropriate relief for PECO's failure to timely comply with the terms of a Commission approved settlement agreement.

III. Witnesses and Testimony

At this time, CAUSE-PA has not identified any expert or factual witnesses for this proceeding, as the issues in this case are primarily legal in nature. Should we identify a need for expert or factual witnesses through the course of the proceeding, CAUSE-PA will provide prompt notice to Your Honor and the parties.

IV. Proposed Schedule

CAUSE-PA is prepared to work with the parties and Your Honor to develop a suitable litigation schedule.

V. Service on CAUSE-PA

CAUSE-PA is represented in this proceeding by:

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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).

VI. Discovery

CAUSE-PA is not proposing any discovery modifications at this time.

VII. Settlement

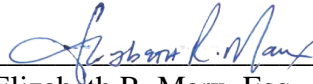
CAUSE-PA is willing and ready to engage in settlement discussions with the parties in an attempt to resolve or narrow the issues in this proceeding, and encourages the parties to engage in settlement early in the process.

VIII. Presentation at Prehearing Conference

Ria Pereira, Esq. will represent CAUSE-PA at the Prehearing Conference in this matter.

Respectfully submitted,

PENNSYLVANIA UTILITY LAW PROJECT
Counsel for CAUSE-PA



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BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

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 PECO Energy Company :

Certificate of Service

I hereby certify that I have this day, October 19, 2020, served copies of the **Prehearing Memorandum of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania** upon the parties of record in the above captioned proceeding in accordance with the requirements of 52 Pa. Code § 1.54, as modified by the Commission’s March 20 Emergency Order, in the manner and upon the persons listed below.

VIA EMAIL


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