



December 11, 2020

VIA E-File

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

Re: Petition of PECO Energy Company for Approval of Its Act 129 Phase IV Energy Efficiency and Conservation Plan, Docket No. M-2020-3020830

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)** in the above noted proceeding.

Pursuant to the Commission's Emergency Order issued on March 20, 2020, and as indicated on the attached Certificate of Service, service on the parties was accomplished by email only.

Respectfully Submitted,



John W. Sweet, Esq.
Counsel for CAUSE-PA

CC: Certificate of Service

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of PECO Energy Company :
for Approval of Its Act 129 Phase IV : Docket No. M-2020-3020830
Energy Efficiency and Conservation Plan :

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

PENNSYLVANIA UTILITY LAW PROJECT
Counsel for CAUSE-PA

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December 11, 2020

Pursuant to the provisions of the Rules of Practice and Procedure of the Pennsylvania Public Utility Commission (PUC or Commission), 52 Pa. Code §§ 5.61-5.76, the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA), through its counsel at the Pennsylvania Utility Law Project, hereby petitions the Pennsylvania Public Utility Commission (Commission) to intervene and files its Answer in the above-captioned proceeding. In support thereof, CAUSE-PA states as follows:

Petition to Intervene

1. Act 129 of 2008 (Act 129) charged the Commission with the task of developing an energy efficiency and conservation program (EE&C Program).
2. The Act also established energy efficiency (EE) and peak demand reduction (PDR or DR) targets that each electric distribution company (EDC) with at least 100,000 customers must meet.
3. Pursuant to Section 2806.1(C)(3) of Act 129, the Commission was also charged with evaluating the costs and benefits of the EE&C Program by November 30, 2013 and every five years thereafter.
4. On June 18, 2020, after receiving comments and reply comments from the Companies and other interested parties, the Commission issued its Energy Efficiency and Conservation Phase IV Implementation Order (Implementation Order), setting consumption reduction and demand reduction targets for each Electric Distribution Company (EDC) with at least 100,000 customers.
5. On November 30, 2020, PECO Energy Company (PECO or the Company) filed its Petition for Approval of Its Act 129 Phase IV Energy Efficiency and Conservation Plan at the above captioned docket.

6. Eligibility to intervene in Commission proceedings is governed by 52 Pa. Code § 5.72, which 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).

7. 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).

8. 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. 2010) (alteration in original) (*citing* Tripps Park v. Pa. PUC, 415 A.2d 967 (Pa. Commw. 1980); Parents United for Better Schools v. School District of Philadelphia, 646 A.2d 689 (Pa. Commw. 1994)).

9. 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.

10. CAUSE-PA membership includes individuals with moderate and low income who reside in the Commonwealth of Pennsylvania and who are committed to the goal of helping low-

income families maintain affordable access to utility services and achieve economic independence.

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

12. CAUSE-PA has a significant interest in the impact that the proposed Energy Efficiency and Conservation Program has on residential customers who have moderate or low income, and such interests are not adequately represented by other participants.

13. Members of CAUSE-PA are located within PECO's service territory and will be directly affected by the outcome of this proceeding.¹

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

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

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16. 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).

¹ Carl Bailey, Sonia Brookins, Marsha Mathis, and Jahala McLendon are customers of PECO and members of CAUSE-PA.

Answer

17. Act 129 identifies low-income customers as a specific group of customers designated to receive specific energy saving levels in the EE&C Plans:

The Plan shall include specific energy efficiency measures for households at or below 150% of the federal poverty income guidelines. The number of measures shall be proportionate to those households' share of the total energy usage in the service territory. 66 Pa. C.S. §§ 2806.1(b)(1)(I)(G).

18. In its Implementation Order, as previously required in Phases II and III of the program, the Commission required that the EDCs provide a proportionate number of measures equivalent to the low-income sector's share of usage. Implementation Order at 27-28.

19. Additionally, the Commission indicated it would require each EDC to obtain a minimum of 5.8 percent of total consumption reduction target from the low-income sector through programs solely directed at low-income customers or low-income-verified participants in multifamily housing programs. Id. at 28.

20. EDCs that fail to meet the proposed Phase IV low-income carve-out are subject to the penalties prescribed under 66 Pa. C.S. § 3301(a). Id.

21. The Commission set PECO's Phase IV targets at 8.8 proportionate low-income measures and 80,089 MWh low-income savings target. Id. at 2, 28, 35.

22. EDCs are only allowed to carryover excess Phase III low-income carve-out savings if they have carryover savings for the entire portfolio of programs in Phase III and if they have low-income carve-out savings attained in Phase III in excess of their Phase III carve-out targets for application towards Phase IV targets. Id. at 44-46.

23. Act 129 requires the Commission to establish standards to ensure that each EDC's EE&C Plan includes a variety of measures and that each Plan will provide the measures equitably

to all customer classes. 66 Pa. C.S. § 2806.1(a)(5).

24. In its Implementation Order, the Commission directed that, in addition to the specific carve-out for the low-income sector, EDCs should develop plans to achieve the most lifetime energy savings per expenditure. Implementation Order at 91.

25. Low-income customers are not excluded from EE&C cost recovery. *Id.* at 134-136.

26. CAUSE-PA has preliminarily reviewed PECO's EE&C Petition and identified a number of issues presented by the filing which may affect its members, including but not limited to:

- a. Whether PECO's proposed programs and identified measures within those programs satisfy the requirements of Act 129 and Commission's Orders, including but not limited to the requirement that low-income households are provided with proportionate measures and the low-income savings carve-out;
- b. Whether PECO's proposed programs and measures are appropriately designed to produce projected savings for participants in multifamily housing programs, and whether the Companies' multi-family housing programs are sufficiently designed to reach and impact low-income households regardless of whether they reside in multifamily buildings that are individually-metered/tenant paid or master-metered/owner-paid;
- c. Whether the proposed plan will achieve the most lifetime energy savings per expenditure;
- d. Whether the proposed plan properly focuses on direct-install measures for low-income customers;

- e. Whether the proposed plan adequately provides comprehensive measures for low-income households;
- f. Whether the delivery of measures to low-income households is appropriately coordinated with other low-income bill assistance and energy efficiency and conservation programming operating within PECO's service territory; and
- g. Whether the delivery of plan measures is appropriately coordinated between Conservation Service Providers (CSPs) serving low-income populations.

27. In addition to these specific issues, CAUSE-PA reserves the right to raise additional issues that may arise as more data and information becomes available throughout the course of this proceeding.

28. It is critical for CAUSE-PA to intervene in the proceeding to resolve potential negative aspects of PECO's Plan and to ensure that the positive aspects of the Plan are not changed.

29. CAUSE-PA asserts that its issues, and any future modifications presented by intervening parties, must be thoroughly reviewed through discovery and an evidentiary hearing, at which all parties are provided an opportunity to submit expert testimony on the record and to fully participate in the proceeding.

WHEREFORE, CAUSE-PA respectfully request that the Public Utility Commission, through its Office of Administrative Law Judge:

- (1) enter an order granting CAUSE-PA full status as an intervener in this proceeding with active party status;
- (2) set forth a procedural process and schedule for litigation in the instant proceeding which allows for full and meaningful participation of all parties, including the submission of expert testimony; and
- (3) grant such other relief as is just and appropriate.

Respectfully submitted,

PENNSYLVANIA UTILITY LAW PROJECT
Counsel for CAUSE-PA

A handwritten signature in black ink, appearing to read "John W. Sweet". The signature is written in a cursive style with a horizontal line above the name.

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Date: December 11, 2020

Verification

I, **Carl 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).


Mr. Carl Bailey

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

Date: December 11, 2020

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of PECO Energy Company :
for Approval of Its Act 129 Phase IV : Docket No. M-2020-3020830
Energy Efficiency and Conservation Plan :

Certificate of Service

I hereby certify that I have this day served copies of the **Petition to Intervene and Answer 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 and consistent with the Commission’s March 20 Emergency Order at Docket M-2020-3019262.

VIA Email Only

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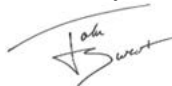
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Respectfully Submitted,
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