



May 20, 2021

Via Electronic Filing

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

**Re: Pa. PUC, Bureau of Investigation and Enforcement v. PECO Energy Company,
Docket No. M-2021-3014286**

Petition to Intervene of CAUSE-PA

Dear Secretary Chiavetta,

Enclosed, please find a **Petition to Intervene of CAUSE-PA** in the above-referenced matter.

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,

Elizabeth R. Marx, Esq.
Counsel for CAUSE-PA

CC: Per Certificate of Service

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission :
v. : Docket No. M-2021-3014286
PECO Energy Company :

CERTIFICATE OF SERVICE

I hereby certify that I have, on this day, served copies of the Petition to Intervene of CAUSE-PA in the above captioned matter upon the following persons and 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.

SERVICE VIA EMAIL ONLY

Table with 2 columns and 2 rows containing contact information for Christopher N. Andreoli, Esq., Anthony E. Gay, Esq., Jack R. Garfinkle, Esq., Jennedy S. Johnson, Esq., Tanya McCloskey, Esq., and Teresa Reed Wagner, Executive Director.

Respectfully submitted,

Handwritten signature of Elizabeth R. Marx

Elizabeth R. Marx, Esq., PA ID: 309014
Counsel for Cause-PA

Dated: May 20, 2021

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission :
v. : **Docket No. M-2021-3014286**
PECO Energy Company :

PETITION TO INTERVENE OF THE COALITION FOR AFFORDABLE UTILITY SERVICES AND ENERGY EFFICIENCY IN PENNSYLVANIA (CAUSE-PA)

PENNSYLVANIA UTILITY LAW PROJECT

Counsel for CAUSE-PA

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May 20, 2021

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 in the above-captioned proceeding.

In support thereof, CAUSE-PA states as follows:

1. On February, 12, 2021, the Commission's Bureau of Investigation and Enforcement (I&E) and PECO Energy Company (PECO or Company) jointly petitioned the Pennsylvania Public Utility Commission (Commission) for approval of a proposed Settlement with respect to an informal investigation conducted by I&E concerning the unlawful termination of electric service terminations by PECO of approximately 49,500 customers. (Order at 3). There is no information in the Joint Petition regarding the geographic location of impacted customers within PECO's service territory, or whether and to what extent impacted customers are low income and/or are or were enrolled in PECO's Customer Assistance Program.
2. The terms of the proposed Settlement, if approved, would require PECO to pay a \$50,000 civil penalty and make a \$25,000 contribution to its Matching Energy Assistance Fund (MEAF). (Order at 6). This amounts to an approximate \$1.52 financial penalty for each alleged unlawful termination. The \$25,000 contribution to MEAF will be divided equally (\$5,000 each) to PECO's MEAF agencies in Bucks, Chester, Delaware, Montgomery, and Philadelphia County. There is no indication in the Joint Petition or the Statements in Support of the proposed Settlement of the number of residential consumers who may receive assistance through this contribution to prevent terminations, or whether the contribution and civil penalty amount bears any relation to the actual harm caused to consumers as a result of

PECO's alleged unlawful termination of service to 49,500 customers.

3. The Joint Petition alleges that "a vast majority of the impacted customers have since been reconnected" and that PECO "historically" restores service "within three days of termination." (Joint Petition at 6). However, there is no indication in the Joint Petition of the timeframe within which consumers impacted by PECO's alleged unlawful terminations were restored. In fact, the Joint Petition notes that "over 1,500 of these customers remained without service and have an 'Off' meter status." (Joint Petition at 6). The Joint Petition asserts that PECO surveyed all affected properties, and that at least 38% of the more than 1,500 affected accounts appear to be occupied or are in fact occupied – yet remain without service following PECO's unlawful termination of service to the property. (Joint Petition at 6). It is also unclear whether the properties that had service terminated by PECO and were later determined to be unoccupied were in fact occupied at the time that service was terminated.
4. The Joint Petition proposes to absolve PECO of all liability for the alleged illegal electric service terminations that are the subject of the proposed Settlement – with I&E agreeing to explicitly forgo any formal Complaint relating to PECO's conduct described in the proposed Settlement. (Joint Petition at 12). However, the legal violations alleged in the Joint Petition are pursuant only to Section 1503(b) of the Pennsylvania Public Utility Code and Section 56.333 (a) and (b) of the Commission's regulations. There is no mention in the Joint Petition or the Statements in Support of the proposed Settlement of whether PECO's actions were also in violation of Section 1406(b)(1)(ii) of the Public Utility Code or Section 56.93 of the Commission's regulations (regarding three-day notice requirements prior to termination), despite the fact that the alleged facts contained in the proposed Settlement plainly and

undeniably indicate that PECO also violated these additional provisions of the law.

5. There is also no mention in the Joint Petition or Statements in Support of the proposed Settlement of whether PECO was then and/or is now in compliance with other interrelated provisions of the Public Utility Code and the Commission's regulations that (1) require PECO attempt to make personal contact with an adult at the property immediately prior to termination, (2) require PECO to immediately cease termination in certain circumstances, and (3) require PECO to restore service within a prescribed timeframe when a termination was erroneous. See 66 Pa. C.S. §§ 1406, 1407; 52 Pa. Code §§ 56.94, 56.95, 56.111-.112. However, the facts alleged in the Joint Petition and Statements in Support suggest that PECO's termination procedures may have been and may still be in violation of these additional provisions of law.
6. Termination of electric service to a home exacerbates negative health outcomes, interrupts family unity, hinders child learning and development, and has a long-term impact on consumer credit and housing stability – making it difficult to connect to utility service in the future. Indeed, the loss of critical utility service, such as electricity, has an immediate destabilizing impact on housing, and is often the catalyst for eviction and homelessness. Proper notice of a utility termination, in full accordance with the law, is critically important to ensure that consumers have the opportunities afforded to them under the law to prevent termination.
7. On May 6, 2021, the Commission issued an Opinion and Order providing an opportunity for interested parties to file formal Comments regarding the proposed Settlement. CAUSE-PA intends to file formal comments in response to the Commission's May 6, 2021 Order within the timeframe permitted by the Commission. Nevertheless, CAUSE-PA seeks intervenor

status in this proceeding to protect the direct and substantial interests of CAUSE-PA's members.

8. 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).
9. 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).
10. 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. Ct. 2010) (alteration in original) (citing Tripps Park v. Pa. PUC, 415 A.2d 967 (Pa. Commw. Ct. 1980); Parents United for Better Schools v. School Dist. of Phila., 646 A.2d 689 (Pa. Commw. Ct. 1994).
11. CAUSE-PA is an unincorporated association of low 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.
12. CAUSE-PA membership is open to moderate and low income individuals residing in the

Commonwealth of Pennsylvania who are committed to the goal of helping low income families maintain affordable access to utility services and achieve economic independence.

13. Several CAUSE-PA members are PECO customers.¹
14. CAUSE-PA is located, c/o the Pennsylvania Legal Aid Network, at 118 Locust Street, Harrisburg, PA 17101.
15. CAUSE-PA has a significant interest, on behalf of its members, in the outcome of the Proposed Settlement, which could absolve PECO of any further liability or accountability for alleged unlawful terminations of over 49,500 residential consumers in violation of multiple provisions of the Public Utility Code and the Commission's regulations. PECO's errors likely caused significant harm to the health, safety, security, and financial stability of its low-income customers. These interests are not adequately represented by other participants.
16. CAUSE-PA has standing to intervene because its members have or may suffer a direct, immediate, and substantial injury to an interest as a result of this proceeding. See Energy Cons. Council of Pa., 995 A.2d at 476. The Proposed Settlement contains insufficient information to determine whether a specific member of CAUSE-PA was among the approximately 49,500 residential consumers who were improperly terminated or otherwise impacted by PECO's failure to adhere to the Public Utility Code and Commission regulations governing involuntary termination of service. Nevertheless, CAUSE-PA asserts that all of its members who are also customers of PECO suffer a direct and substantial harm when PECO fails to adhere to the Commission's regulations governing involuntary termination. Based on the facts disclosed in the proposed Settlement, CAUSE-PA asserts that PECO may still be non-compliant with the Public Utility Code and Commission regulations governing

¹ The following CAUSE-PA members are residential customers of PECO: Marsha White Mathis, Sonia Brookins, and Jahala McLendon.

involuntary terminations, which may impact CAUSE-PA's members.

17. CAUSE-PA is represented in this proceeding by counsel at the Pennsylvania Utility Law

Project:

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18. 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).

WHEREFORE, CAUSE-PA respectfully requests that the Commission enter an order granting CAUSE-PA full status as an intervener in this proceeding with active party status.

Respectfully submitted,

PENNSYLVANIA UTILITY LAW PROJECT
Counsel for CAUSE-PA



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Dated: May 20, 2021

Verification

I, **Elizabeth R. Marx**, legal counsel for CAUSE-PA, on behalf of CAUSE-PA, hereby state that the facts contained in the foregoing pleadings 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 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).



Elizabeth R. Marx, Esq.
On behalf of CAUSE-PA

May 20, 2021