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June 9, 2021

VIA eFILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17105-3265

**Re: Pennsylvania Public Utility Commission, Bureau of Investigation
and Enforcement v. PECO Energy Company
Docket No. M-2021-3014286**

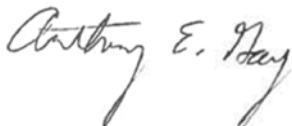
Dear Secretary Chiavetta:

Enclosed for filing is the **Answer of PECO Energy Company to the Petition to Intervene of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (“Answer”)**, in the above-referenced matter.

This Answer is being served as shown on the attached Certificate of Service.

If you have any questions, please do not hesitate to contact me.

Very truly yours,



Anthony E. Gay

Enclosures

c: Per Certificate of Service (w/encls.)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PENNSYLVANIA PUBLIC UTILITY	:	
COMMISSION, BUREAU OF	:	
INVESTIGATION AND	:	
ENFORCEMENT	:	DOCKET NO. M-2021-3014286
	:	
v.	:	
	:	
PECO ENERGY COMPANY	:	

CERTIFICATE OF SERVICE

I hereby certify and affirm that I have this day served a copy of the **Answer of PECO Energy Company to the Petition to Intervene of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania** on the persons listed below, in the manner specified in accordance with the requirements of 52 Pa. Code § 1.54:

VIA ELECTRONIC MAIL

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Dated: June 9, 2021

Counsel for PECO Energy Company

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PENNSYLVANIA PUBLIC UTILITY	:	
COMMISSION, BUREAU OF	:	
INVESTIGATION AND ENFORCEMENT	:	
	:	Docket No. M-2021-3014286
v.	:	
	:	
PECO ENERGY COMPANY	:	

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

I. INTRODUCTION AND OVERVIEW

Pursuant to 52 Pa. Code § 5.66, PECO Energy Company (“PECO” or the “Company”) submits this Answer to the Petition to Intervene filed by the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (“CAUSE-PA”) on May 20, 2021 in the above-referenced docket. This proceeding arises from the Pennsylvania Public Utility Commission (“PUC” or “Commission”) Bureau of Investigation and Enforcement’s (“I&E”) informal investigation into computer programming errors by a PECO third-party call center vendor that ultimately led to electric service terminations of certain PECO customers that did not comply with all Commission termination notice requirements.

On February 12, 2021, the Company and I&E filed a proposed Settlement Agreement (“Settlement”) at the above-captioned docket that resolves all issues related to the informal investigation, and the Commission entered an Opinion and Order on May 6, 2021 (“May 2021 Order”) requesting interested parties to file comments on the Settlement. The Settlement summarized I&E’s investigation, including the nature of the vendor computer errors, the resulting alleged violations of the Public Utility Code, the actions PECO took to correct the

errors and reconnect customers, and new procedures that PECO has implemented to safeguard against future termination issues. The Settlement also provided for civil penalties that PECO would pay upon approval of the Settlement.

Following the May 2021 Order, Company counsel advised I&E of additional data that was discovered regarding the reconnection of PECO customers who did not receive proper notices of termination. In light of that data, both PECO and I&E determined that certain provisions of the Settlement require revision and filed a Joint Petition For Leave to Withdraw Settlement on June 8, 2021. Because I&E and PECO are the only other parties to this proceeding and both support withdrawal of the Settlement, the Commission should dismiss CAUSE-PA's Petition as moot. In the event the Commission determines CAUSE-PA's Petition is not moot, PECO respectfully opposes CAUSE-PA's request to intervene in this informal investigation for the following reasons.

First, CAUSE-PA's Petition is contrary to the Commission's direction regarding the process for parties to address the Settlement. The Commission's regulations at 52 Pa. Code § 3.113(b)(3) state that the Commission will provide "potentially affected persons with an opportunity to submit exceptions thereon or to take other action provided for under law."¹ Here, the Commission has already established a process for the provision of comments through the May 21 Order, and CAUSE-PA has already stated that it intends to submit timely comments on

¹ Section 3.113(b)(3) provides in relevant part:

When the utility, or other person subject to the Commission's jurisdiction, has committed to undertake action to address or remedy a violation or potential violation of the act or to resolve another perceived deficiency at the utility, in the form of a settlement with the Commission staff or other resolution of the matter, the Commission's consideration of the settlement or approval of the utility's action will occur at public meeting.... Before the Commission makes a final decision to adopt the settlement or to approve the utility's action, the Commission will provide other potentially affected persons with the opportunity to submit exceptions thereon or to take other action provided for under law.

the Settlement.² Under analogous circumstances, the Commission denied intervention in an informal investigation of a utility's contacts with a customer prior to termination of service because the petitioner had also submitted comments on the settlement of that investigation:

Intervention is not necessary in this instance. We issued the Settlement for comment by any interested party. [Dauphin County Social Services for Children and Youth ("CYS")], in its capacity as a representative of [the customer's daughter], has sufficient interest to submit comments. Accordingly, we shall consider the comments filed by CYS.³

In addition, allowing "potentially affected persons" to intervene in informal investigations would contravene public policy designed to obtain prompt remedial action by a utility for conduct that could rise to the level of a violation of the Public Utility Code or Commission regulations without the initiation of formal on-the-record proceedings. Alleged impacts on individual customers arising from a utility's conduct at issue in an informal investigation can be addressed on a customer-by-customer basis through separate, formal proceedings.

Finally, the language employed in the Commission's regulation at 52 Pa. Code § 5.72(a)(2), which establishes the test intervenors must satisfy, imposes a stricter standard than 52

² Petition, ¶ 7.

³ *Pa. P.U.C., Law Bureau Prosecutory Staff v. PPL Elec. Utils. Corp.*, Docket No. M-2008-2057562, 2009 WL 1103771, at *4 (Opinion and Order entered Mar. 31, 2009). In that case, Prosecutory Staff initiated an informal investigation of the alleged failure of PPL Electric Utilities Corp. ("PPL") to adequately explain available means to avoid termination prior to a service disconnection at the Donachy family residence in Oberlin, Pennsylvania. The Donachys had not paid any bills on the account for approximately one year before service was terminated and PPL customer service representatives had repeated telephone conversations with the Donachys about their payment obligations. The day after service was terminated at the residence, a fire allegedly started by a lit candle led to death of two of the Donachy children and seriously injured their 5-month old daughter. Prosecutory Staff and PPL reached a settlement of the informal investigation in which PPL agreed to additional training and script changes regarding terminations and a \$300,000 contribution to PPL's Operation HELP financial aid program. CYS argued that it had an interest to intervene the informal investigation to ensure a complete study of the circumstances which led to the injuries of the Donachys' surviving daughter and that PPL's \$300,000 contribution to Operation HELP as part of the settlement should be redirected to a trust fund for the child. *See id.* at *2-*5.

Pa. Code § 3.113(b)(3).⁴ CAUSE-PA’s interest in this proceeding, as set forth in its Petition, arises from its averment that its members who are PECO customers suffer a “direct and substantial harm” from violations of the Public Utility Code and Commission regulations governing involuntary terminations. However, a general interest in full compliance with the law does not confer standing to intervene in a Commission proceeding.⁵ Moreover, as previously explained, CAUSE-PA has the opportunity to raise its alleged concerns with respect to the service terminations at issue in I&E’s informal investigation by filing comments on the Settlement. For this same reason, CAUSE-PA cannot satisfy the additional, cumulative requirement imposed by Section 5.72(a)(2) to demonstrate that it “may be bound by the action of the Commission” in this informal investigation. For all these reasons, the Petition should be denied.

In further support of its opposition to CAUSE-PA’s Petition, PECO responds to the specific paragraphs of the Petition as follows:

II. ANSWER TO SPECIFIC AVERMENTS

1. Admitted in part and denied in part. It is admitted that I&E and PECO jointly petitioned the Commission for approval of the proposed Settlement to resolve all issues related to I&E’s informal investigation into the alleged unlawful termination of various customers resulting from a change to the dialer platform used by PECO’s call center third-party vendor. The

⁴ Compare 52 Pa. Code § 5.72(a)(2) (“An interest 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.”) (emphasis added) with 52 Pa. Code § 3.113(b)(3) (“*potentially affected persons*” have the opportunity “to submit exceptions [on settlement of an informal investigation] or to take other action provided for under law”) (emphasis added).

⁵ See, e.g., *Application of Artesian Water Pennsylvania, Inc., for Approval to Begin to Offer, Render, Furnish or Supply Water Serv. to the Pub. in Additional Territory in Portions of New Garden Twp., Chester Cty., Pennsylvania*, A-2014-2451241, 2015 WL 1976284, at *9 (Apr. 22, 2015) (citing *Ken R. ex rel. C.R. v. Arthur Z.*, 682 A.2d 1267, 1270 (Pa. 1996); *In re El Rancho Grande, Inc.*, 437 A.2d 1150 (Pa. 1981); *William Penn Parking Garage, Inc. v. City of Pittsburgh*, 346 A.2d 269, 282-284 (Pa. 1975)).

remaining averments of Paragraph No. 1 seek to characterize the proposed Settlement, which as a written document, speaks for itself.

2. Denied. The averments of Paragraph No. 2 seek to characterize the proposed Settlement and Statements in Support, which as written documents speak for themselves.

3. Denied. The averments of Paragraph No. 3 seek to characterize the proposed Settlement, which as a written document, speaks for itself.

4. Denied. The averments of Paragraph No. 4 seek to characterize the proposed Settlement and Statements in Support, which as written documents speak for themselves.

5. Denied. The averments of Paragraph No. 5 seek to characterize the proposed Settlement and Statements in Support, which as written documents speak for themselves.

6. PECO is without knowledge or information sufficient to form a belief as to the allegations of Paragraph No. 6 and, therefore, denies, those allegations and demand proof thereof, if deemed relevant.

7. Admitted in part and denied in part. It is admitted that CAUSE-PA's interest in the subject matter of I&E's informal investigation into the alleged improper service terminations of certain PECO customers provides a legitimate basis for CAUSE-PA to submit comments on the proposed Settlement in accordance with the May 2021 Order. It is denied that CAUSE-PA's asserted interest provides a valid basis to permit CAUSE-PA's intervention as a litigant with party status in an informal investigation for the reasons set forth in Section I above, which are incorporated herein by reference.

8. The allegations of Paragraph No. 8 are conclusions of law to which no response is required and, therefore, are deemed denied.

9. The allegations of Paragraph No. 9 are conclusions of law to which no response is required and, therefore, are deemed denied.

10. The allegations of Paragraph No. 10 are conclusions of law to which no response is required and, therefore, are deemed denied.

11. Admitted.

12. Admitted.

13. Admitted.

14. Admitted.

15. Denied. The averments of Paragraph No. 15 are denied for the reasons set forth in Section I and Paragraph No. 7 above, which are incorporated herein by reference.

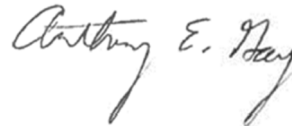
Additionally, CAUSE-PA's averment that the proposed Settlement "could absolve PECO of any further liability or accountability for alleged unlawful terminations" is specifically denied. By way of further response, a Commission order approving the proposed Settlement would not affect any rights of customers impacted by the service terminations at issue in I&E's informal investigation provided under law.

16. Denied. The averments of Paragraph No. 16 are denied for the reasons set forth in Section I and Paragraph Nos. 7 and 15 above, which are incorporated herein by reference. By way of further answer, it is denied that PECO's alleged failure "to adhere to the Public Utility Code and the Commission's regulations governing involuntary termination of service" gives rise to an "interest" in the instant proceeding that satisfies the minimum requirements of 52 Pa. Code § 5.72(a)(2) for the Commission to authorize intervention. This averment amounts to no more than a general interest in compliance with the law, which as previously explained, is insufficient to convey a direct, immediate, and substantial interest in the subject matter of a proceeding.

17. Admitted.

18. Admitted.

WHEREFORE, for the foregoing reasons, PECO Energy Company respectfully requests that the Commission deny the petition to intervene filed by the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania.



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Dated: June 9, 2021