



May 16, 2022

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

Re: PECO Energy Company's 2016-2018 Universal Service and Energy Conservation Plan, Docket No. M-2015-2507139

CAUSE-PA Petition to Intervene and Answer

Dear Secretary Chiavetta:

Attached for filing, please find the **Petition to Intervene and Answer of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA) to the Petition of PECO Energy Company for Expedited Approval to Establish an Emergency Grant Program for Low-Income Customers** at the above noted docket.

Copies were served electronically consistent with the attached certificate of service.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Elizabeth R. Marx".

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Counsel for CAUSE-PA

CC: Certificate of Service
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BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

PECO Energy Company 2016-2018 Universal :
Service and Energy Conservation Plan : Docket No. M-2015-2507139

CERTIFICATE OF SERVICE

I hereby certify that I have, on this day, served copies of the **Petition to Intervene and Answer of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania** in the above captioned matter upon the following persons and in accordance with the requirements of 52 Pa. Code § 1.54.

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Dated: May 16, 2022

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

PECO Energy Company 2016-2018 Universal : Docket No. M-2015-2507139
Service and Energy Conservation Plan :
:

**PETITION TO INTERVENE AND ANSWER OF
THE COALITION FOR AFFORDABLE UTILITY SERVICES AND
ENERGY EFFICIENCY IN PENNSYLVANIA (CAUSE-PA)
TO THE PETITION OF PECO ENERGY COMPANY FOR EXPEDITED
APPROVAL TO ESTABLISH AN EMERGENCY GRANT PROGRAM
FOR LOW-INCOME CUSTOMERS**

THE PENNSYLVANIA UTILITY LAW PROJECT

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May 16, 2022

Pursuant to the provisions of the Rules of Practice and Procedure of the Pennsylvania Public Utility Commission (Commission), 52 Pa. Code §§ 5.61(e), 5.71-.76, the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA), through its counsel at the Pennsylvania Utility Law Project, hereby files this Petition to Intervene and Answer to the Petition of PECO Energy Company for Expedited Approval to Establish an Emergency Grant Program for Low-Income Customers (hereinafter Expedited Petition).

In support thereof, CAUSE-PA submits the following:

BACKGROUND

1. PECO's 2016-2018 USECP was submitted on October 1, 2015, and approved by the Commission on August 11, 2016.¹
2. PECO's 2016-2018 USECP remains in effect at this time as directed by the Commission while PECO's proposed USECP for 2019-2024 is under Commission review.²
3. LIURP is a usage reduction program approved as part of PECO's USECP for low income, residential customers with household gross income at or below 200% of the Federal Poverty Level (FPL) with high usage under certain eligibility criteria. LIURP assistance to customers includes direct weatherization and conservation measures as well as in-home education that promotes energy usage reductions to help families achieve long-term bill savings and improve bill affordability.

¹ See PECO Energy Company Universal Service and Energy Conservation Plan for 2016-2018 Submitted in Compliance with 52 Pa. Code §§ 54.74 and 62.4, Order, Docket No. M-2015-2507139 (Order entered August 11, 2016) (hereinafter, August 2016 Order on 2016-2018 USECP).

² See PECO Energy Company Universal Service and Energy Conservation Plan for 2019-2024 Submitted in Compliance with 52 Pa. Code §§ 54.74 and 62.4, Docket No. M-2018-3005795.

4. PECO's LIURP programs have an annual budget of \$6.6 million for electric programs and \$2.25 million for gas programs, for a combined total of \$8.85 million.³
5. On March 6, 2020, Governor Tom Wolf issued a Proclamation of Disaster Emergency due to the emergence of COVID-19 in the United States and the Commonwealth of Pennsylvania.⁴
6. In response to the Governor's Proclamation of Disaster Emergency, PECO suspended all in-home weatherization program services between March 23, 2020 and October 5, 2020. (Expedited Petition at 4, para. 10).
7. PECO indicates that, as a result of the pandemic restrictions, it was unable to spend \$3.7 million of its annual LIURP funding in 2020. (Expedited Petition at 4, para. 11).
8. On March 23, 2021, PECO filed a Petition to use the \$3.7 million in unspent LIURP funds to establish a new emergency grant program to help address low income customer arrearages (March 23 Petition). In relevant part, PECO's March 23 Petition sought to issue grant assistance to households with income at or below 200% of the federal poverty level with any past-due balance on a "first-come, first-served" basis over a two-year period. Participants with any remaining arrears after application of the grant would be placed into a five-year payment arrangement. PECO proposed to administer the program through its existing network of community based organizations that administer PECO's Matching Energy Assistance Fund (MEAF).⁵

³ Note that PECO's Expedited Petition indicates that PECO's electric LIURP has a current budget of \$5.6 million. (Petition at 4). This appears to be an error, as PECO's electric LIURP budget was increased to \$6.6 million in its 2021 electric base rate proceeding. See Pa. PUC v. PECO – Electric Division, Recommended Decision, Docket No. R-2021-3024601 at 23-24, para. 32 & 36-36 (order entered Oct. 6, 2021, and affirmed by Commission Order on November 18, 2021) (hereinafter, RD).

⁴ Proclamation of Disaster Emergency pursuant to Section 7301(c) of the Emergency Management Services Code, 35 Pa. C.S. §§ 7101, et seq.

⁵ PECO Energy Company's 2016-2018 Universal Service and Energy Conservation Plan, Petition of PECO Energy Co. for Expedited Approval to Establish a COVID-19 Emergency Grant Program for Low-Income Customers, Docket No. M-2015-2507139 (filed Mar. 23, 2021) (hereinafter March 23 Petition).

9. On March 31, 2021, CAUSE-PA filed an Answer in support of PECO's March 23 Petition.⁶
10. On November 18, 2021, the Commission approved a Joint Petition for Settlement in PECO's 2021 electric base rate proceeding at Docket Number R-2021-3024601. In relevant part, the approved Settlement contained the following provisions regarding PECO's March 23 Petition, which was not previously acted on by the Commission, and the reallocation of \$3.7 million in unspent LIURP funds from the 2020 program year to support PECO's MEAF:

Within 30 days after the date of filing the Joint Petition, PECO will file a Petition to Withdraw its March 23, 2021 Petition for Expedited Approval to Establish a COVID-19 Emergency Grant Program for Low Income Customers, filed at Docket Number M-2015-2507139. The Joint Petitioners agree to either join, support, or not oppose PECO's Petition to Withdraw pursuant to this provision.⁷

PECO will reallocate all unspent LIURP funds from the 2020 LIURP program year (approximately \$3.7 million) to provide emergency grant assistance through its Matching Energy Assistance Fund ('MEAF'). The funds will be allocated over a two-year period, with a \$1.85 million allocation in 2021 and a \$1.85 million allocation in 2022. PECO will not be required to match these funds with shareholder donations. These funds will be allocated proportionately to counties across its service territory based on the number of confirmed low-income customers in each county and will be available to households with income at or below 200% of the federal poverty level until the funds are expended.⁸

11. The Settlement also included a \$1 million annual increase in general LIURP funding for PECO electric's LIURP budget (from \$5.6 million to \$6.6 million); an extension of PECO's LIURP De Facto pilot through December 31, 2023, with an independent budget of \$500,000; and an additional \$500,000 increase to support health and safety remediation within PECO's LIURP, for a total independent budget of \$1.5 million for health and safety remediation.⁹

⁶ PECO Energy Company's 2016-2018 Universal Service and Energy Conservation Plan, Petition of PECO Energy Co. for Expedited Approval to Establish a COVID-19 Emergency Grant Program for Low-Income Customers, Docket No. M-2015-2507139 (Answer of CAUSE-PA, filed Mar. 31, 2021).

⁷ RD at 23, para. 33.

⁸ RD at 23-24, para. 34

⁹ RD at 23-24, para. 32 & 36-36.

12. In support of these intersecting provisions of the Commission-approved Settlement, CAUSE-PA – together with the Tenant Union Representative Network – explained:

*Coupled with the above increase in LIURP funds, and in light of the extreme and disproportionate economic impact of the pandemic on low income households, TURN and CAUSE-PA submit that this provision is a reasonable resolution to ensure PECO’s unspent LIURP funds will go to support the families that were intended to receive these funds.*¹⁰

13. The approved Settlement from PECO’s electric rate case also contained several provisions expanding the accessibility of grant assistance to low income households through PECO’s MEAF program:

Beginning no later than 14 calendar days after the date the Joint Petition is filed with the Commission, PECO will permit customers to remain eligible for MEAF assistance even if they use a medical certificate or enter into a payment arrangement after applying for MEAF.¹¹

Beginning no later than 14 calendar days after the date the Joint Petition is filed with the Commission, PECO will permit customers to receive MEAF assistance even if they entered into long term payment arrangements pursuant to the Commission’s March 13, 2021 Order at Docket No. M-2020-3019244 and are no longer at risk of termination. For such customers, PECO will apply the MEAF grant to the remaining balance subject to the payment agreement, and thereafter offer a new payment arrangement on such remaining balance of the same or greater duration than originally agreed.¹²

14. CAUSE-PA – together with TURN – indicated its support for these MEAF reforms in its Statement in Support, noting the overwhelming unmet need for crisis grant assistance. CAUSE-PA and TURN explained that the MEAF reforms would “allow customers to use other tools to prevent termination and remain connected to service while their application for MEAF is pending in process.”¹³

¹⁰ See Pa. PUC v. PECO – Electric Division, Joint Statement in Support of TURN & CAUSE-PA, Docket No. R-2021-3024601, at 14 (filed Sept. 15, 2021) (hereinafter Joint Statement in Support of TURN & CAUSE-PA).

¹¹ RD at 25, para. 38.

¹² RD at 25, para. 39.

¹³ Joint Statement in Support of TURN and CAUSE-PA at 16.

15. In Comments to PECO’s pending Universal Service and Energy Conservation Plan for 2019-2024 (2019-2024 USECO), CAUSE-PA - together with TURN - raised substantial concerns about the accessibility of PECO’s MEAF, and recommended that the Commission require PECO to implement reforms to its MEAF to remove unnecessarily restrictive programmatic barriers. In support, CAUSE-PA and TURN explained:

The total MEAF dollars PECO distributes each year evidences a clear need to relax the strict eligibility requirements imposed by PECO on MEAF applicants. Since 2010, PECO has consistently – and substantially – underspent the budget available for MEAF.

TABLE 6: MEAF Total Benefits Disbursed, Electric 2010-2019

	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Dollars Distributed	\$374,944	\$349,669	\$328,989	\$366,519	\$324,076	\$296,313	\$293,530	\$400,205	\$254,814	\$316,174
Total Contributions	\$589,173	\$567,501	\$576,138	\$586,107	\$566,220	\$563,533	\$564,755	\$609,798	\$505,869	\$544,166
Difference	\$214,229	\$217,832	\$247,149	\$219,588	\$242,194	\$267,220	\$271,225	\$209,593	\$251,055	\$227,992

TABLE 7: MEAF Total Benefits Disbursed, Gas 2010-2019

	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Dollars Distributed	\$71,418	\$66,604	\$53,556	\$54,767	\$52,319	\$48,237	\$47,784	\$65,150	\$44,967	\$55,795
Total Contributions	\$112,223	\$114,250	\$93,789	\$93,956	\$91,410	\$91,738	\$91,937	\$99,269	\$89,271	\$96,029
Difference	\$40,805	\$47,646	\$40,233	\$39,189	\$39,091	\$43,501	\$44,153	\$34,119	\$44,304	\$40,234

It is not clear what happens to the remaining unspent MEAF budget each year. We recognize some of these funds are likely to support administration of the program. But if the entirety of the difference is spent on administration (well over 30% of total contributions each year – and approaching 50% in some years), that would raise questions about the reasonableness of PECO’s MEAF administrative costs. PECO should be required to explain this consistent underspending, and take steps to improve the accessibility of the program to those in need.

The sizeable underspending of MEAF funds year after year is not due to a lack of need – PECO’s confirmed low income customers carry a substantial level of debt,

and face astounding levels of termination. In 2019, 21,081 confirmed low income electric customers were involuntarily terminated in PECO's service territory – a 15.1% termination rate.¹⁴

16. In response to the Joint Comments of TURN & CAUSE-PA to PECO's 2019-2024 USECP, PECO argued that it has not underspent its MEAF funds (without addressing the documented disparity between annual MEAF contributions and spending levels), and that permanent reforms to its MEAF were unnecessary.¹⁵
17. On April 26, 2022, PECO Energy Company (PECO) filed the instant Expedited Petition, seeking approval to establish a temporary low income grant assistance program (Grant Program), through which it intends to distribute the \$3.7 million in unspent funds from its 2020 Low Income Usage Reduction Program (LIURP) through direct grants, which will be automatically applied to confirmed low income accounts in arrears of \$500 or more, as funding allows. (Expedited Petition at 1).
18. On May 9, 2022, the Commission issued a Secretarial Letter requesting stakeholder input in response to PECO's Expedited Petition and reminded interested parties that Answers to PECO's Petition are due by May 16, 2022, consistent with the Commission's regulations at 52 Pa. Code § 5.61.

¹⁴ See PECO Energy Company Universal Service and Energy Conservation Plan for 2019-2024 Submitted in Compliance with 52 Pa. Code §§ 54.74 and 62.4, Joint Comments of TURN and CAUSE-PA, Docket No. M-2018-3005795, at 55-60 (filed July 20, 2021) (hereinafter Joint Comments of TURN & CAUSE-PA to PECO 2019-2024 USECP) (citing Pa. PUC, BCS, 2010-2019 Reports on Universal Service Programs and Collections Performance, available at <https://www.puc.pa.gov/filing-resources/reports/universal-service-reports/>).

¹⁵ PECO Energy Company Universal Service and Energy Conservation Plan for 2019-2024 Submitted in Compliance with 52 Pa. Code §§ 54.74 and 62.4, Reply Comments of PECO, Docket No. M-2018-3005795, at 16-18 (filed August 25, 2021).

ANSWER TO EXPEDITED PETITION

19. CAUSE-PA is strongly supportive of efforts to provide robust utility assistance to low income households, and to remove unnecessary barriers that restrict the ability of those in need to equitably and efficiently access critical bill assistance.
20. Energy poverty and insecurity is pervasive, impacting tens of thousands of PECO customers. In 2020, PECO had over 160,000 confirmed low income customers - for which PECO had documentation of income status within the last two years. Based on U.S. Census data, PECO likely had over 460,000 low income customers in 2020 – far more than the number of low income households for which PECO has verified income.¹⁶
21. In 2019, the last year in which representative low income termination data was available, PECO terminated gas and electric service to over 25,000 confirmed low income customers – over 15% of PECO’s confirmed low income customers in that year.¹⁷
22. Since the inception of the pandemic, low income families have struggled even more profoundly to achieve and maintain economic stability. Rising inflation in the cost of basic household goods, including home energy, has made matters worse – compounding financial instability for Pennsylvania’s lowest income households.¹⁸
23. LIURP is a critical universal service program that meaningfully and effectively helps low income, high usage customers achieve bill reductions through energy conservation.¹⁹ The LIURP program is, itself, designed to “decrease the incidence and risk of customer payment

¹⁶ Pa. PUC, BCS, 2020 Report on Universal Service Programs and Collections Performance, at 6, 8-9 (Nov. 2021), <https://www.puc.pa.gov/media/1709/2020-universal-service-report-final.pdf>.

¹⁷ See *id.* at 15-16.

¹⁸ See Pa. PUC, Press Release: PUC Alerts Consumers of June 1 Price Changes for Electric Generation (May 9, 2022), <https://www.puc.pa.gov/press-release/2022/puc-alerts-consumers-of-june-1-price-changes-for-electric-generation>.

¹⁹ PECO 2018-2020 USECP at 24.

delinquencies and the attendant utility costs associated with uncollectible accounts expense, collection costs and arrearage carrying costs.”²⁰

24. Under normal circumstances, CAUSE-PA believes strongly that remaining LIURP funds at the end of a program year should be rolled over and added to the budget for LIURP services in the following year. LIURP funds are already inadequate to serve identified need for usage reduction and energy efficiency services, and funds allocated for these purposes must remain available to help reduce this vast unmet need for assistance to help control high usage and reduce home energy bills over the longer term. That said, as the emergence of the COVID-19 pandemic in 2020 has caused both a drastic increase in low income arrears as well as impediments to completing LIURP jobs throughout that year, CAUSE-PA has supported and continues to support efforts to use unspent LIURP dollars from the 2020 LIURP program year to provide emergency grant assistance to low income households. As noted above, CAUSE-PA’s support of PECO’s specific efforts to utilize unspent 2020 LIURP dollars for emergency grant assistance was based in large part on the fact that PECO increased its LIURP budget on a forward-going basis – offsetting the loss of funds for LIURP services in 2020.
25. CAUSE-PA is not opposed to PECO’s Expedited Petition at bar in this proceeding as a *one-time, extraordinary provision* to distribute emergency relief to low income households. The \$3.7 million in unspent LIURP funds has been tied up for far too long, while tens of thousands of PECO’s low income customers struggle to remain connected to service. *It is critical that this available funding be used to help assist low income families without further delay.*
26. CAUSE-PA notes that PECO’s proposal is imperfect, as it does not necessarily prioritize funds to those most in need of assistance and will not reach those for whom PECO does not already

²⁰ 52 Pa. Code § 58.1.

have income information on file. That said, in light of the circumstances associated these additional programmatic funds (e.g., one-time underspending of LIURP program dollars from 2020), coupled with ongoing economic hardship associated with the pandemic and the substantial level of inflation for home energy and other basic goods and services, CAUSE-PA believes PECO's proposal represents a reasonable path forward to quickly and efficiently distribute emergency funds to as many households as possible to help reduce low income terminations.

27. Nevertheless, should the Commission grant PECO's Petition, we caution the Commission to be clear that approval of this proposal should not set a precedent for the distribution of future hardship funds – or in the treatment of unspent LIURP funds at the end of a program year.
28. Consistent with CAUSE-PA's comments in PECO's pending USECP proceeding, CAUSE-PA asserts that there are substantial MEAF reforms necessary in PECO's service territory to remove unnecessarily restrictive program rules and improve the equitable distribution of MEAF assistance on a forward-going basis.²¹
29. CAUSE-PA recommends, regardless of its decision regarding PECO's instant Petition, that the Commission take steps to make broader systemic reforms to its MEAF in the context of PECO's pending USECP proceeding. It is critically important that the Commission ensure PECO's MEAF is adequately designed and implemented to distribute all available hardship funds in an equitable and efficient manner.
30. Nevertheless, given broader reforms to PECO's MEAF will take time to implement, we believe that PECO's current proposal presents a reasonable path forward to get relief to those in need as broader programmatic reforms are underway to prevent this issue from arising in the future.

²¹ Joint Comments of TURN & CAUSE-PA to PECO 2019-2024 USECP at 55-60.

INTERVENTION

31. CAUSE-PA seeks to intervene in this proceeding to protect the rights and interests of its members and other low income Pennsylvanians who reside in PECO's service territory.
32. 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).
33. 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).
34. 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)).
35. 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.

36. CAUSE-PA membership is open to low and moderate income Pennsylvanians committed to the goal of helping low income families maintain affordable access to utility services and achieve economic independence.
37. CAUSE-PA is located, c/o the Pennsylvania Legal Aid Network, at 118 Locust Street, Harrisburg, PA 17101.
38. CAUSE-PA was a signatory party to the Commission-approved Settlement referenced in PECO's Petition, which required PECO to apply the \$3.7 million in 2020 unspent LIURP funds to support PECO's Matching Energy Assistance Fund – PECO's Hardship Fund grant assistance program.
39. Members of CAUSE-PA are located within PECO's service territory and will be directly affected by the outcome of this proceeding, as it will impact the ability of CAUSE-PA members to access grant assistance.
40. CAUSE-PA has a significant interest in the impact that PECO's proposal, which are not adequately represented by other participants.
41. CAUSE-PA has standing to intervene because its members have or will 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.
42. CAUSE-PA is represented in this proceeding by:
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John W. Sweet, Esquire
Ria M. Pereira, Esquire
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43. Counsel for CAUSE-PA consents to the service of documents by electronic mail.

CONCLUSION

CAUSE-PA respectfully requests that the Commission grant its Petition to Intervene.

CAUSE-PA is not opposed to PECO's proposal as a one-time program for short-term relief due to extraordinary circumstances, as it will help respond to ongoing energy affordability crisis impacting low income customers. PECO's Expedited Petition – albeit imperfect – advances a reasonable plan under the circumstances to distribute funds quickly and, in turn, to help slow the rate of involuntary terminations in PECO's service territory. Notwithstanding the Commission's review of PECO's Expedited Petition, CAUSE-PA urges the Commission to further explore broader programmatic reforms to PECO's MEAF in the context of its pending USECP proceeding to ensure that emergency grant relief is equitably accessible to those most in need of emergency grant assistance.

Respectfully submitted,
PENNSYLVANIA UTILITY LAW PROJECT
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Dated: May 16, 2022

Verification

I, **Elizabeth R. Marx**, legal counsel for 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 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 the Coalition for Affordable Utility Services
and Energy Efficiency in Pennsylvania (CAUSE-PA)*

May 16, 2022