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AN EXELON COMPANY

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September 8, 2022

VIA eFILING

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

**Re: Petition of PECO Energy Company to Defer Implementation of Customer Assistance Program Participant Shopping in Its Service Area
Docket No. P-2022-**

Dear Secretary Chiavetta:

Enclosed for filing is the **Petition of PECO Energy Company to Defer Implementation of Customer Assistance Program Participant Shopping in Its Service Area** (“Petition”).

As evidenced by the enclosed Certificate of Service, copies of the Petition are being served on the parties of record to the Company’s fifth default service proceeding at Docket No. P-2020-301929 and the Company’s 2019-2025 Universal Service and Energy Conservation Plan proceeding at Docket No. M-2018-3005795.

If you have any questions, please contact me directly at 215.841.4353.

Very truly yours,

Jennedy S. Johnson

Enclosures

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

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PETITION OF PECO ENERGY	:	
COMPANY TO DEFER	:	
IMPLEMENTATION OF CUSTOMER	:	Docket No. P-2022-
ASSISTANCE PROGRAM	:	
PARTICIPANT SHOPPING IN ITS	:	
SERVICE AREA	:	

CERTIFICATE OF SERVICE

I hereby certify and affirm that I have this day served a copy of the **Petition of PECO Energy Company to Defer Implementation of Customer Assistance Program Participant Shopping in Its Service Area**, on the following persons in the manner specified in accordance with the requirements of 52 Pa. Code § 1.54:

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Dated: September 8, 2022

Counsel for PECO Energy Company

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PETITION OF PECO ENERGY :
COMPANY TO DEFER :
IMPLEMENTATION OF CUSTOMER : **DOCKET NO. P-2022-**
ASSISTANCE PROGRAM :
PARTICIPANT SHOPPING IN ITS :
SERVICE AREA :

PETITION OF PECO ENERGY COMPANY

Pursuant to the December 3, 2020 Order entered by the Pennsylvania Public Utility Commission (the “Commission” or “PUC”) approving PECO Energy Company’s (“PECO’s” or “the Company’s”) fifth default service program (“DSP V”),¹ PECO hereby petitions the PUC for approval to continue to restrict customers enrolled in its Customer Assistance Program (“CAP”) from shopping for retail electric generation supply until after the Commission issues its final Policy Statement on Electric Customer Assistance Program Participant Shopping (“Policy Statement”).² If the Commission’s final guidelines call for CAP shopping within all electric distribution company (“EDC”) service areas in Pennsylvania, PECO will submit a plan to enable shopping by CAP customers after the effective date of the final Policy Statement.

Maintaining the status quo in PECO’s service area will help ensure affordability of utility service for CAP customers without increasing the CAP program costs paid by PECO residential customers. PECO’s request is consistent with the Commission’s recent decisions concluding that the carefully crafted CAP shopping restrictions implemented in other EDCs’ service areas

¹ *Petition of PECO Energy Co. for Approval of Its Default Serv. Program for the Period from June 1, 2021 through May 31, 2025*, Docket No. P-2020-3019290 (Opinion and Order entered Dec. 3, 2020) (“PECO DSP V Order”), pp. 24 and 31.

² *Elec. Distribution Co. Default Serv. Plans – Customer Assistance Program Shopping*, Docket No. M-2018-3006578 (Proposed Policy Statement Order entered Feb. 28, 2019) (“Proposed Policy Statement Order”).

have not adequately protected residential customers from the costs of CAP customers paying a rate for generation service that is higher than the Price-to-Compare (“PTC”).³ This request is also consistent with the pending implementation of PECO’s new CAP Percentage of Income Payment Plan (“PIPP”), that was approved by the Commission on June 16, 2022.⁴ In support of its request to defer implementation of CAP customer shopping in the Company’s service area until the PUC issues a final Policy Statement directing the implementation of CAP shopping in all EDC service areas, PECO states as follows:

I. BACKGROUND AND OVERVIEW OF PECO’S EXISTING CUSTOMER ASSISTANCE PROGRAM

1. PECO is a corporation organized and existing under the laws of the Commonwealth of Pennsylvania with its principal office in Philadelphia, Pennsylvania. PECO provides electric delivery service to approximately 1.6 million customers.
2. In accordance with the universal service obligations set forth in the Public Utility Code, PECO’s CAP assists low-income customers in PECO’s service territory through discounted energy bills. PECO’s CAP is a special rate rider for customers with an annual household gross income level at or below 150% of the poverty level established under Federal

³ *Joint Petition of Metro. Edison Co., Pennsylvania Elec. Co., Pennsylvania Power Co., and West Penn Power Co. for Approval of their Default Serv. Programs for the Period Beginning June 1, 2023 through May 31, 2027*, Docket Nos. P-2021-3030012 *et al.* (Recommended Decision issued June 29, 2022) (“FirstEnergy DSP VI R.D.”), pp. 88-91; *Petition of PPL Elec. Utils. Corp. for Approval of Its Default Serv. Program for the Period from June 1, 2021 through May 31, 2025*, Docket No. P-2020-3019356 (Dec. 17, 2020) (“PPL DSP V Order”), pp. 123-127; *see also* *Petition of Duquesne Light Co. for Approval of Its Default Serv. Plan for the Period from June 1, 2021 through May 31, 2025*, Docket No. P-2020-3019522 (Opinion and Order entered Jan. 14, 2021) (“DLC DSP IX Order”), p. 97 (finding that deferral of CAP shopping in Duquesne Light Company’s (“DLC’s”) service area until the PUC issues final guidance in the Policy Statement is “consistent with applicable law and with the Commission’s statutory obligation to ensure that CAP is cost-effective and available to all those in need”). The Commission adopted the FirstEnergy DSP VI R.D. without modification by Order entered on August 4, 2022.

⁴ *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 (Opinion and Order entered June 16, 2022) (“June 2022 USECP Order”).

law. Approximately 117,500 residential electric customers in PECO’s service territory – almost 8% of all PECO residential electric customers – participate in the CAP.

3. In October 2016, PECO transitioned from a tiered rate discount CAP structure to a new Fixed Credit Option (“FCO”) design. Under this approach, CAP customers receive a fixed bill credit each year for the utility service they receive based on the income of the customer’s household, the number of residents in the household and the utility usage of the household in the prior year. The CAP credit is designed to help ensure that the energy “burden” – the cost of electricity in proportion to household income – is affordable for CAP customers based on poverty level. PECO calculates the CAP credit amount using a twelve-month look-back period.

4. On July 8, 2020, PECO proposed to change its current CAP to provide a percentage of income-based benefit to CAP customers instead of a fixed credit. PECO proposed this change as an amendment to its 2019-2024 Universal Services and Conservation Plan at Docket No. M-2018-3005795 (“CAP Design Proceeding”). The PIPP design provides eligible customers with a fixed bill equal to what the CAP customer can afford to pay for utility service. The fixed bill amount is determined by applying an energy burden percentage to the customer’s annual income. CAP credits will be applied to reduce the customer’s monthly undiscounted bill to the monthly PIPP bill amount. For billing purposes, PECO will apply the lesser of the CAP PIPP bill or actual charges. Bills issued under the CAP PIPP will be subject to both monthly minimum bill amounts and annual maximum credit amounts.⁵

⁵ PECO does not apply CAP credit limits to its natural gas accounts.

5. On June 16, 2022, the Commission entered an order approving the Company's adoption of a PIPP.⁶ PECO will implement the PIPP by December 16, 2022.⁷

6. A portion of the dollar amount of the aggregate bill credits provided to CAP customers each year is recovered through base rates, and any shortfall is recovered from all residential customers through PECO's Universal Service Fund Charge ("USFC").

7. All of PECO's customers, including all low-income customers, may elect to shop for electricity and purchase electric generation supply from an electric generation supplier ("EGS") at any time. However, those customers are not permitted to enter into, or remain on, CAP while purchasing electric generation supply from an EGS.

II. PECO'S CAP SHOPPING PLAN PROPOSAL IN THE DSP V PROCEEDING

8. In the Proposed Policy Statement Order issued on February 28, 2019, the Commission outlined uniform CAP shopping policies and requirements for Pennsylvania EDCs. The CAP shopping requirements include (1) a CAP shopping product rate at or below the EDC's PTC for the duration of the contract; (2) a prohibition in EGS-CAP customer contracts against fees unrelated to the provision of electric generation service, including early termination and cancellation fees; and (3) the following options for CAP customers upon expiration of the current contract period: (i) enter into another contract with their existing EGS with the same CAP protections, (ii) switch to another supplier offering a contract with the same CAP protections, or (iii) return to default service.

⁶ June 2022 USECP Order, pp. 19-41, 103-107.

⁷ See *PECO Energy Co. 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 (Order entered August 4, 2022) (granting PECO's request to extend the deadline to implement the PIPP from October 16, 2022 to December 16, 2022).

9. By Secretarial Letter issued on January 23, 2020, the PUC acknowledged that its proposed CAP shopping policy statement was “unlikely to be final and effective in time for some upcoming DSP proceedings.”⁸ The Commission therefore directed all EDCs to consider the Commission’s prior guidance in the Proposed Policy Statement Order and recent decisions in previous default service proceedings in developing CAP proposals for upcoming DSP filings.⁹

10. On March 13, 2020, PECO filed its petition seeking PUC approval of its proposed DSP V for the period June 1, 2021 to May 31, 2025. In accordance with the Commission’s direction in its Proposed Policy Statement Order, PECO’s DSP V proposal included a CAP shopping plan (“Plan”) where CAP customers may only enter a contract with an EGS for a rate that is at or below PECO’s PTC and does not contain any early termination, cancellation, or other fees. PECO also proposed to impose new requirements for EGSs who choose to serve CAP customers, including the use of the Company’s “bill-ready” EDC consolidated billing, and established contract expiration and change notice procedures. To ensure verifiable supplier interest in serving PECO CAP customers, the Company proposed to require the receipt of a minimum of five nonbinding CAP supplier participation notices from EGSs before Plan implementation.

⁸ *Investigation into Default Service and PJM Interconnection, LLC Settlement Reforms*, Docket No. M-2019-3007101 (Secretarial Letter issued Jan. 23, 2020) (“January 2020 Secretarial Letter”).

⁹ *See Petition of PPL Elec. Utils. Corp. for Approval of a Default Serv. Program for the Period June 1, 2017 through May 31, 2021*, Docket No. P-2016-2526627 (Opinion and Order entered Oct. 27, 2016), *aff’d by, Retail Energy Supply Ass’n v. Pa. Pub. Util. Comm’n*, 185 A.2d 1206 (Pa. Cmwlth. Ct. 2018); *Petition of Metropolitan Edison Co., Pennsylvania Electric Co., Pennsylvania Power Co., West Penn Power Co. for Approval of a Default Serv. Program for the Period Beginning June 1, 2019 through May 31, 2023*, Docket Nos. P-2017-2637855 et al. (Opinion and Order entered Sept. 4, 2018) (“September 2018 Order”), pp. 58-59. On February 28, 2019, the Commission entered a Final Order (“FirstEnergy DSP V Order”) adopting rules and procedures for the CAP shopping program approved in the September 2018 Order.

11. Several witnesses addressed CAP shopping issues in their testimony submitted in PECO’s DSP V proceeding. The Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania and the Tenant Union Representative Network and Action Alliance of Senior Citizens of Greater Philadelphia generally opposed CAP customer shopping in PECO’s service area and presented data showing that PECO’s residential customers, including non-CAP confirmed low-income customers, have paid (on average) generation service rates greater than PECO’s PTC since 2015. On the other hand, a coalition of EGSs expressed concerns with PECO’s proposed implementation timeline for the Plan and the requirement for EGSs to post their CAP rates on PaPowerSwitch.com.

12. In a Joint Petition for Partial Settlement filed on August 13, 2020, nearly all of the parties to PECO’s DSP V proceeding reached a settlement (“Settlement”) that, among other things, resolved issues related to the design of a CAP shopping platform in PECO’s service area. As previously noted, after the initial DSP V filing, PECO requested to change the design of its CAP. To accommodate coordination of PECO’s CAP shopping platform design with the future PUC-approved CAP benefit design, PECO agreed to submit a CAP shopping proposal within 90 days of the Commission’s final Order in the CAP Design Proceeding instead of implementing the Plan during DSP V.¹⁰

13. The Commission approved the Settlement without modification in the PECO DSP V Order and entered its final Order in the CAP Design Proceeding on June 16, 2022, which triggered the CAP shopping filing described in Paragraph 70 of the Settlement.

¹⁰ Joint Petition, ¶ 70.

III. PERMITTING PECO TO DEFER IMPLEMENTATION OF CAP CUSTOMER SHOPPING UNTIL THE COMMISSION PROVIDES GUIDANCE TO ALL PENNSYLVANIA EDCS IS REASONABLE AND IN THE PUBLIC INTEREST

14. PECO's proposal to continue to restrict CAP customers from purchasing electric generation service from EGSs until the Commission issues a final Policy Statement is reasonable and in the public interest for several reasons.

15. First, PECO's proposal is consistent with the approach the PUC approved in 2021 for DLC, the only other EDC besides PECO that has not allowed its CAP customers to shop for electric generation supply. That approach was based largely on the documented problems PPL Electric Utilities Corp. ("PPL") experienced in implementing its "CAP-SOP" framework where EGSs must agree to serve PPL's CAP customers at a 7% discount off the PTC.¹¹ Under PPL's "CAP-SOP" rules, customers that enter CAP with preexisting EGS contracts at prices above the PTC are permitted to remain with that supplier until the end of the contract term. In the PPL DSP V Order (pp. 123-127), the PUC approved elimination of CAP customer shopping effective June 1, 2021 to protect customers entering CAP with pre-program shopping contracts from harm associated with paying above-PTC rates for generation service. In that case, PPL presented data showing that as of January 2020, 7,975 CAP customers were shopping outside of CAP-SOP and 62% of those customers were paying rates higher than the PTC. PPL also represented that only a few EGSs had participated in the CAP-SOP for short periods since the program's implementation in June 2017. Based on that evidence, the PUC concluded that PPL's CAP-SOP does not sufficiently protect shopping CAP customers from paying a rate higher than the PTC and the CAP-SOP had not otherwise been successful due to lack of EGS participation.

¹¹ See DLC DSP IX Order, pp. 96-98.

16. Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company (collectively, the “FirstEnergy EDCs”) will also require their CAP customers to receive default service at the PTC commencing with their sixth default service program in June 1, 2023. In the FirstEnergy DSP VI R.D. (pp. 89-90), the presiding Administrative Law Judge determined that:

Under the Settlement, effective June 1, 2023, CAP customers in the Companies’ service areas will receive default service at the applicable PTC as recommended by the OCA and CAUSE-PA to address their concerns about enforcing the CAP rate protections for the subset of customers that may become eligible for CAP while they remain on an existing EGS contract.

[T]he settlement adopts a reasonable set of rules for CAP customers and those customers who pay for CAP so as to ensure that the program is adequately funded consistent with law, but that non-CAP customers are not paying more to support the program than is reasonably necessary and that CAP customers are not paying rates that exacerbate energy unaffordability.

In short, as of June 1, 2023, all Pennsylvania EDCs’ CAP customers will receive default service at the PTC.

17. Given the evidence presented in recent default service proceedings that CAP shopping restrictions consistent with the Proposed Policy Statement Order have failed to curtail low-income customers paying above-PTC generation rates, PECO reviewed the prices the Company’s shopping residential customers are currently paying. The Company compared EGS prices in cents per kWh (determined by dividing monthly EGS charges billed to all residential accounts divided by kWh usage) to PECO’s PTC in effect during the applicable period. Based on that analysis, since 2020, more than 80% of shopping residential customers have consistently paid EGS prices above PECO’s PTC.

18. PECO's current policy is an effective way to ensure that CAP customers do not pay prices higher than the PTC for generation service and that other residential customers do not pay higher universal service charges due to that EGS pricing. Under PECO's PIPP, which will be implemented in December 2022, CAP customers receive a maximum CAP credit amount to be used over a 12-month period. If a CAP customer shops at a rate higher than the PTC, the customer will exceed their maximum allowable CAP credit at a faster pace. CAP customers shopping at a rate higher than the PTC also increases the amount that other residential customers must pay to cover the CAP shortfall. In short, maintaining PECO's prohibition on CAP customer shopping is consistent with the Company's obligations to ensure its CAP is adequately funded and cost-effective pursuant to Section 2804(9) of the Public Utility Code.¹²

19. Further, the Company recently implemented the reduced energy burdens found in Commission's 2019 CAP Policy Statement. As a result, CAP customers' monthly asked-to-pay amounts are even lower than they were previously. EGSs would have to provide *substantial* discounts in order for a CAP customer to receive a benefit from shopping. For example, based on PECO's residential PTC of \$0.0778 effective on September 1, 2022, an EGS would have to charge \$0.002 (i.e., less than 1 cent) to a family of four with average usage (700 kWh) and a household income at 100-150% of the Federal Poverty Level ("FPL") for the customer to save any money shopping.¹³

¹² 66 Pa.C.S. § 2804(9).

¹³ At a PTC of \$0.0778 per kWh, an average residential customer bill is \$122.77 and an average PIPP bill for a CAP customer with household income at 101-150% of FPL is \$69. For billing purposes under CAP, PECO will apply the lesser of the PIPP bill or actual charges. In the above example, an EGS would have to charge the CAP customer a rate of \$0.002 (i.e., \$0.0758 LESS than the PTC) for the CAP customer to receive actual charges lower than the \$69 PIPP bill. PECO notes that currently no EGSs have elected to participate in the Standard Offer Program to offer customers a twelve-month contract priced at 7% off of PECO's PTC in effect from September 1, 2022 through November 30, 2022 (\$0.072 per kWh).

IV. NOTICE

20. PECO is serving copies of this filing on the Pennsylvania Office of Consumer Advocate, the Pennsylvania Office of Small Business Advocate, the Commission's Bureau of Investigation and Enforcement, and all other parties to the Company's DSP V proceeding and CAP Design Proceeding. Should the Commission conclude that further notice of this filing is appropriate, PECO will provide such additional notice as directed by the Commission.

V. CONCLUSION

Based upon the foregoing, PECO respectfully requests that the Commission grant this Petition and enter an Order approving continuation of PECO's current rule requiring CAP customers to receive default service at the Price-to-Compare until after the effective date of a

Commission Policy Statement directing the implementation of CAP shopping in all electric distribution company service areas in Pennsylvania.

Respectfully submitted,



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Dated: September 8, 2022

Counsel For PECO Energy Company

DB1/ 132662374.1

VERIFICATION

I, Richard G. Webster, Jr., hereby declare that I am the Vice President, Regulatory Policy and Strategy of PECO Energy Company; that as such, I am authorized to make this verification on its behalf; that the facts set forth in the foregoing Petition are true to the best of my knowledge, information and belief, and that I make this verification subject to the penalties of 18 Pa. C.S. §4904 pertaining to false statements to authorities.

A handwritten signature in blue ink, appearing to read "R.G.W." followed by a long horizontal flourish.

Date: September 8, 2022

Richard G. Webster, Jr.