

COMMONWEALTH OF PENNSYLVANIA




OFFICE OF CONSUMER ADVOCATE

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September 28, 2022

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Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
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Re: Petition of PECO Energy Company to Defer  
Implementation of Customer Assistance  
Program Participant Shopping in Its Service  
Area  
Docket No. P-2022-3035092

Dear Secretary Chiavetta:

Enclosed please find the Office of Consumer Advocate's Answer to PECO Energy Company's Petition in the above-referenced proceeding. The undersigned certifies that this filing contains no averments or denials of fact subject to verification and penalties under 52 Pa. Code Section 1.36.

Copies have been served on the parties as indicated on the enclosed Certificate of Service.

Respectfully submitted,

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Certificate of Service

\*335978

## CERTIFICATE OF SERVICE

Petition of PECO Energy Company to Defer :  
Implementation of Customer Assistance : Docket No. P-2022-3035092  
Program Participant Shopping in Its Service :  
Area :

I hereby certify that I have this day served a true copy of the following document, the Office of Consumer Advocate's Answer to PECO Energy Company's Petition, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 28<sup>th</sup> day of September 2022.

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BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of PECO Energy Company :  
To Defer Implementation of Customer : Docket No. P-2022-3035092  
Assistance Program Participant Shopping :  
In its Service Area :

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ANSWER  
OF THE  
OFFICE OF CONSUMER ADVOCATE  
IN SUPPORT OF PETITION

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The Office of Consumer Advocate (OCA) hereby submits this Answer in support of the September 8, 2022, Petition filed by PECO Energy Company (PECO or Company) in the above-referenced docket.

**I. INTRODUCTION**

On September 8, 2022, PECO filed its Petition to Defer Implementation of Customer Assistance Program Participant Shopping in its Service Area (Petition). Through its Petition, PECO is proposing to defer implementation of a CAP shopping Plan and to restrict CAP shopping until the Commission provides further guidance to electric distribution companies about the requirements for CAP Shopping. Petition at ¶ 14. In its Petition, PECO requests to defer implementation of its CAP customer shopping Plan until the Commission provides further guidance to all Pennsylvania EDCs. Petition at ¶ 14. The OCA supports PECO's request to defer implementation of a CAP shopping Plan. The proposal will ensure that neither CAP customers nor the ratepayers who help pay for CAP pay costs of electric generation prices higher than the PTC.

In the Commission's Proposed Policy Statement Order on CAP Shopping that was issued on February 28, 2019, the Commission identified uniform CAP shopping policies for electric distribution companies. Petition at ¶ 8. As the Petition provides, the Commission's Order identified the following CAP Shopping requirements:

(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.

Petition at ¶ 8; *See Elec. Distribution Co. Default Serv. Plans – Customer Assistance Program Shopping*, Docket No. M-2018-3006578 at 10, Order (Feb. 28, 2019) (*Proposed Policy Statement Order*).

In advance of the filing of the electric distribution companies' next Default Service Plans, the Commission issued a Secretarial Letter on January 23, 2020 directing EDCs on how their DSPs should address CAP shopping. The Secretarial Letter identified that the proposed CAP Shopping Policy Statement was unlikely to be effective in time for PECO's Default Service Proceeding. *Investigation into Default Service and PJM Interconnection, LLC Settlement Reforms*, Docket No. M-2019-3007101, Secretarial Letter (Jan. 23, 2020). As the Petition noted, the Commission "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." Petition at 9, citing *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, Order (Oct. 27, 2016), *aff'd by, Retail Energy Supply Ass'n v. Pa. PUC*, 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., Order at 58-59 (Sept. 4, 2018)

On March 13, 2020, PECO filed its Default Service Plan V Petition (DSP V Petition) seeking approval of its proposed DSP V for the period June 1, 2021, through May 31, 2025. Petition at ¶ 10. In accordance with the *Proposed Policy Statement Order*, PECO proposed a CAP shopping plan that provided the following:

[w]here 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 EGS before Plan implementation.

Petition at ¶ 10.

As the Petition correctly identifies, several parties including the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA) and the Tenant Union Representative Network and Action Alliance of Senior Citizens of Greater Philadelphia (TURN) opposed CAP customer shopping and presented data which showed that PECO's residential customers, including confirmed low-income customers, have paid on average generation service rates higher than PECO's Price to Compare (PTC) since 2015. Petition at ¶ 11. The parties to PECO's DSP V proceeding filed a Joint Petition for Partial Settlement (Partial Settlement) on August 13, 2020. As a part of the Partial Settlement, PECO agreed to submit a CAP shopping proposal within 90 days of the Commission's final Order in the CAP design proceeding instead of implementation of a CAP Shopping Plan. The proposed changes to the CAP design would directly impact the design of the CAP Shopping Plan.

The Commission issued its final Order in the CAP design proceeding on June 16, 2022. Petition at ¶ 13; *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 (Aug. 4, 2022) (*CAP Design Order*). The issuance of the *CAP Design Order* triggered the implementation of Paragraph 70 of the DSP V Petition Settlement. PECO stated that the Company is filing the current Petition in response, and in order to defer implementation of a CAP Shopping Plan.

On July 8, 2020, PECO proposed to change its Fixed Credit Option to a Percentage of Income Payment Program (PIPP) as an amendment to PECO's 2019-2024 Universal Service and Energy Conservation Program at Docket No. M-2018-3005795 (CAP Design Proceeding). Petition at ¶ 4. As PECO explains, the PIPP design will provide low-income customers with a fixed bill amount equal to the energy burdens identified by the Commission's revised CAP Policy Statement. Petition at ¶ 4. The CAP PIPP is subject to a minimum bill and annual maximum CAP credit amount. Petition at ¶ 4. The new CAP design is designed to produce more affordable bills for low-income customers. Petition at ¶ 4 CAP customer shopping may decrease the improved CAP bill affordability provided for by the new CAP design and would almost certainly increase the costs of the CAP program paid for by other ratepayers.

For the reasons set forth below, the OCA supports PECO's proposal and recommends that the Petition be approved. New facts about the impact of shopping on the affordability of customer bills have come to light since the 2020 DSP V proceeding in other DSP proceedings. Moreover, the Commission has not yet finalized its Proposed CAP Shopping Order. The OCA agrees that deferral of the implementation of the CAP Shopping Plan makes sense at this time.

## II. ANSWER

In its Petition, PECO requests deferral of the implementation of a CAP Shopping Plan pursuant to the Settlement of its DSP V. Petition at ¶ 14. PECO identifies several reasons why CAP Shopping should be deferred: (1) PECO would, as of June 1, 2023, then be the only electric distribution company in Pennsylvania to allow CAP customer shopping; (2) the harms identified in the PPL Electric Utilities (PPL) and the Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, and West Penn Power Company (collectively the FirstEnergy Companies) proceedings to CAP customers and non-CAP residential customers who pay the costs of the program; and (3) the proposal would conflict with the purposes of the revised energy burdens. Petition at ¶ 14. The OCA supports PECO's proposed deferral of implementation of the CAP Shopping Plan.

PECO's Petition described how CAP Shopping has changed in Pennsylvania since the Company's 2020 DSP V Settlement. The Petition provides that its proposal is consistent with how Duquesne Light Company (Duquesne) currently addresses the issue of CAP customer shopping in its service territory. Petition at ¶¶ 15-16. Duquesne currently does not permit CAP customers to shop. As provided in PECO's Petition, Duquesne's 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.<sup>11</sup> 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.

Petition at ¶ 15. In addition to limitations on PPL and Duquesne CAP customer shopping, PECO also identified that the Commission will require CAP customers to receive default service at the Price to Compare beginning with the FirstEnergy Companies' DSP VI on June 1, 2023. Petition at ¶ 15. As of June 1, 2023, all electric CAP customers in Pennsylvania will receive default service at the Price to Compare (PTC). Petition at ¶ 16.

The OCA agrees that PECO should handle its CAP shopping in the same manner as other Pennsylvania EDCs have done. In other DSP proceedings, the Commission has recognized the harms to both CAP customers and non-CAP residential customers as a result of CAP shopping. In its Petition, PECO addressed the harms of CAP shopping on both CAP customers and the residential customers who pay the costs of the program through the CAP shortfall.<sup>1</sup> The Petition provides:

[g]iven 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.

Petition at ¶ 17.

The OCA agrees that the harms to CAP customers by shopping have been well-documented in both the PPL and FirstEnergy Companies' proceeding PECO references in its Petition. The OCA also agrees with PECO that PECO's current policy is an appropriate and effective way to ensure that CAP customers do not pay prices higher than the Price to Compare and that other CAP

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<sup>1</sup> The CAP shortfall is the difference between the full residential rate tariff and the discounted bill.

customers do not pay higher universal service charges as a result. Petition at ¶ 18. In particular, if CAP customers are charged prices higher than the PTC, CAP customers may exhaust their 12-month maximum CAP credit more quickly. Exhaustion of the maximum CAP credit due to a higher price for electricity will result in unaffordable bills for low-income customers and undermine the purpose of the CAP Design proceeding.

Finally, PECO argues that the proposed CAP Shopping Plan would conflict with the objectives that the Company is trying to achieve with its recently approved revised energy burdens. Petition at ¶ 19. The OCA submits the energy burdens were lowered in order to improve CAP customer affordability. As a result of the CAP Design proceeding, CAP customers' monthly asked-to-pay amounts are even lower than they were previously. As the Petition provides, in order to provide a more affordable bill to CAP customers "EGSs would have to provide *substantial* discounts in order for a CAP customer to receive a benefit from shopping." Petition at ¶ 19. PECO claimed that:

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.

Petition at ¶ 19.

The evidence presented in the FirstEnergy and the PPL proceedings clearly demonstrate the financial harms of CAP shopping to both CAP customers and non-CAP residential customers who pay the costs of the program. Limitations on CAP customer shopping are an important cost control measure for the CAP program. The OCA submits that the new energy burdens for PECO's CAP are designed to improve affordability, but implementation of CAP shopping in PECO's service territory would undermine that objective. The OCA supports PECO's proposal to defer implementation of a CAP Shopping Plan.

### III. CONCLUSION

For the reasons set forth above and in PECO's Petition, the Office of Consumer Advocate supports the proposed Petition and respectfully requests that PECO's Petition to Defer Implementation of Customer Assistance Program Participant Shopping in its Service Area be approved.

Respectfully Submitted,

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