

**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120**

Public Meeting held May 23, 2024

Commissioners Present:

Stephen M. DeFrank, Chairman
Kimberly Barrow, Vice Chair
Ralph V. Yanora
Kathryn L. Zerfuss
John F. Coleman, Jr.

Petition of PECO Energy Company for Approval of
Changes to its Act 129 Phase IV Energy Efficiency
and Conservation Plan

M-2020-3020830

OPINION AND ORDER

BY THE COMMISSION:

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition is the Petition of PECO Energy Company (PECO or the Company) for Approval of Changes to its Act 129 Phase IV Energy Efficiency and Conservation (EE&C) Plan (Petition), filed on March 4, 2024, in the above-captioned proceeding. The Office of Consumer Advocate (OCA) filed a Letter (OCA Letter) on April 3, 2024 stating that it does not oppose the Petition. No Comments were filed in response to the Petition.

For the reasons set forth herein, we shall grant the Petition, consistent with the discussion in this Opinion and Order.

I. Background and Procedural History

On October 15, 2008, Act 129 of 2008 (Act 129 or Act) was signed into law with an effective date of November 14, 2008. Among other requirements, Act 129 directed the Commission to adopt an EE&C Program, under which each of the Commonwealth's largest electric distribution companies (EDCs) was required to implement a cost-effective EE&C plan to reduce energy consumption and demand. Specifically, Act 129 required each EDC with at least 100,000 customers to adopt an EE&C plan to reduce energy demand and consumption within its service territory. Initially, Act 129 required each affected EDC to adopt an EE&C plan to reduce electric consumption by at least one percent of its expected consumption for June 1, 2009 through May 31, 2010, by May 31, 2011. The Act also required the Commission to develop and adopt an EE&C Program by January 15, 2009, and to set out specific issues the EE&C Program must address. 66 Pa. C.S. § 2806.1(a).

On January 15, 2009, the Commission adopted an Implementation Order at Docket No. M-2008-2069887 (*Phase I Implementation Order*), which established the standards each plan was to meet, and which provided guidance on the procedures to be followed for submittal, review, and approval of all aspects of the EE&C plans. The Commission subsequently approved an EE&C plan (and, in some cases, modifications to the plan) for each affected EDC.

Another requirement of Act 129 directed the Commission to evaluate the costs and benefits of the Commission's EE&C Program and of the EDCs' approved EE&C plans by November 30, 2013, and every five years thereafter. The Act provided that the Commission must adopt additional incremental reductions in consumption and peak demand if it determines that the benefits of the EE&C Program exceed its costs.

Consistent with the above, on August 3, 2012, the Commission issued an Implementation Order at Docket Nos. M-2012-2289411 and M-2008-2069887 (*Phase II Implementation Order*), which established required standards for Phase II EDC EE&C plans (including the additional incremental reductions in consumption that each EDC must meet) and provided guidance on the procedures to be followed for submittal, review, and approval of all aspects of the EDCs' Phase II EE&C plans. Within the *Phase II Implementation Order*, the Commission tentatively adopted EDC-specific consumption reduction targets to be met by May 31, 2016. The Commission subsequently approved a Phase II EE&C Plan (and, in some cases, modifications to the plan) for each affected EDC.

The Commission also subsequently issued an Implementation Order on June 19, 2015, at Docket No. M-2014-2424864 (*Phase III Implementation Order*) for Phase III of the EE&C Program. The Commission determined in its *Phase III Implementation Order* that additional reductions in consumption and peak demand were cost-effective and, therefore, prescribed reductions in consumption and peak demand targets to be met by May 31, 2021. The Commission subsequently approved a Phase III EE&C Plan (and, in some cases, modifications to the plan) for each affected EDC.

On June 18, 2020, the Commission adopted its *Phase IV Implementation Order*,¹ establishing the required incremental reductions in consumption and peak demand, and standards that each Phase IV plan must meet, and providing guidance on the procedures to be followed for submittal, review, and approval of all aspects of EE&C plans for the period from June 1, 2021, through May 31, 2026. The *Phase IV Implementation Order* directed electric distribution companies to file Phase IV EE&C plans by November 30, 2020.

¹ See, *Energy Efficiency and Conservation Program Implementation Order*, at Docket No. M-2020-3015228 (Order entered June 18, 2020) (*Phase IV Implementation Order*).

On November 30, 2020, PECO timely filed a Petition requesting approval of its Act 129 Phase IV EE&C Plan (Phase IV Plan) at the above-captioned docket. The Company's Phase IV Plan included a broad portfolio of energy efficiency and energy education programs and initiatives designed to meet the goals established by Act 129 of 2008, 66 Pa. C.S. §§ 2806.1 and 2806.2, and the Commission's *Phase IV Implementation Order*, as well as other important policy goals and objectives.

On February 26, 2021, PECO, OCA, the Office of Small Business Advocate (OSBA), the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA), and the Philadelphia Area Industrial Energy Users Group (PAIEUG) (collectively, Joint Petitioners) filed a Joint Petition for Settlement (Settlement).

By Order Certifying the Record in this proceeding, dated March 2, 2021, Administrative Law Judges (ALJs) Mark A. Hoyer and Emily I. DeVoe provided a history of the investigation into PECO's Phase IV Plan; delineated the transcripts, statements, exhibits, and briefs admitted into the record; and certified the record to the Commission for consideration and disposition, in accordance with the *Phase IV Implementation Order*.

On March 25, 2021, the Commission entered an Opinion and Order in this proceeding, which: (1) granted the Settlement, thereby approving the Settlement, without modification; and (2) granted PECO's Petition, thereby approving the Phase IV Plan, as modified by the terms of the Settlement. *See, Petition of PECO Energy Company for Approval of its Act 129 Phase IV Energy Efficiency and Conservation Plan*, Docket No. M-2020-3020830 (Order entered March 25, 2021) (*March 2021 Order*).

On April 19, 2021, the Commission issued an Errata Notice to correct certain ministerial errors in the *March 2021 Order*.

On March 4, 2024, PECO filed the instant Petition requesting permission to modify its Phase IV Plan (Proposed Plan Modifications). Specifically, the Company requests approval of five modifications, consisting of both “minor” and “major” changes as defined in the Commission’s expedited review process, set forth in *Energy Efficiency and Conservation Program*, Docket No. M-2008-2069887 (Order entered June 10, 2011) (*Minor Plan Change Order*). PECO requested that the Commission review and approve all of the proposed modifications set forth in its Petition pursuant to the “major” change process, which provides parties with thirty days to file comments, an answer, or both, and twenty days to file replies.

As previously noted, the OCA filed its Letter on April 3, 2024 indicating that it does not oppose the Petition. No other Party filed Comments to the Petition.

II. Legal Standards

We have previously held that a petition to amend a Commission-approved Act 129 EE&C Plan is a petition to amend a Commission Order, pursuant to our Regulations at 52 Pa. Code §§ 5.41 and 5.572. *Minor Plan Change Order* at 14. The Commission’s application of the standard for granting a petition for amendment, reconsideration, or rescission is set forth in *Philip Duick, et al v Pennsylvania Gas and Water Company*, 56 Pa. PUC 553 (1982) (*Duick*) as follows:

A petition for reconsideration, under the provisions of 66 Pa. C.S. § 703(g), may properly raise any matters designed to convince the Commission that it should exercise its discretion under this code section to rescind or amend a prior order in whole or in part on the grounds that the decision or ruling of the Commission on a matter or issue was either unwise or in error.

In this regard we agree with the Court in the Pennsylvania Railroad Company case, wherein the Court said,

[b]ut the grounds for reconsideration should be restricted to the new matters and new or changed conditions set up in the joint petition, which had arisen since and were not presented in the several petitions of these appellants ... and dismissed by the Commission ... and not appealed from. Parties,..., cannot be permitted, by a second motion to review and reconsider, to raise the same questions which were specifically considered and decided against them and not appealed from. ...

Pennsylvania Railroad Co. v. Public Service Commission, 118 Pa. Super. 380 (1935).

What we expect to see raised in such petitions are new and novel arguments, not previously heard, or considerations which appear to have been overlooked or not addressed by the Commission. Absent such matters being presented, we consider it unlikely that a party will succeed in persuading us that our initial decision on a matter or issue was either unwise or in error.

Duick at 559; *see also, AT&T v Pa. PUC*, 568 A.2d 1362 (Pa. Cmwlt. 1990).

The Commission utilizes a two-step analysis in determining whether to exercise its discretion to grant relief under *Duick*. *See, e.g., SBG Management Services, Inc./Colonial Garden Realty Co., L.P. v. Philadelphia Gas Works*, Docket No. C-2012-2304183 (Opinion and Order entered May 19, 2019) (SBG Order)² (discussing *Application of La Mexicana Express Service, LLC, to transport persons in paratransit service, between points within Berks County*, Docket No. A-2012-2329717; A-6415209 (Opinion and Order entered September 11, 2014)).

² *Affirmed, Phila. Gas Works v. Pa. PUC*, 249 A.3d 963 (2021); No. 14 EAP 2020 (April 29, 2021); 2021 WL 1681311; *remand granted, in part* (June 15, 2021); 2021 WL 2697432 (Table).

The first step is to determine whether a party has offered any basis to persuade the Commission to exercise its discretion, including but not limited to, new and novel arguments or identified considerations that appear to have been overlooked or not addressed by the Commission in its previous order. This initial step examines whether a party raises the same questions which were specifically considered and decided against them by a prior Order of the Commission. If so, it is unlikely that the Commission will be persuaded to exercise its discretion to grant relief. *Duick* at 559 (citing *Pennsylvania Railroad Co. v. Public Service Commission*, 118 Pa. Super. 380 (1935)). The second step of the *Duick* analysis is to evaluate any matter the Commission has deemed worthy of consideration, to determine whether to grant any relief.

III. Discussion

In this case PECO's Proposed Plan Modifications do not require the Commission to reconsider the same questions that were previously decided in this proceeding. Rather, PECO has proposed changes to its Phase IV Plan based on experience with its Phase IV Plan, as well as changes in circumstances since the Commission approved the Company's Phase IV Plan. We conclude that PECO's Petition satisfies the first step in our analysis under *Duick*, by presenting matters we deem worthy of reconsideration. Thus, the question for resolution is whether the rationale for the Proposed Plan Modifications is sufficient to persuade the Commission to exercise its discretion to amend its prior order.

We note that any issue that we do not specifically address has been duly considered and will be denied without further discussion. It is well settled that the Commission is not required to consider, expressly or at length, each contention or argument raised by the Parties. *Consolidated Rail Corporation v. Pa. PUC*, 625 A.2d 741, 744 (Pa. Cmwlth. 1993); *see also, generally, University of Pennsylvania v. Pa. PUC*, 485 A.2d 1217 (Pa. Cmwlth. 1984).

A. Overview of PECO’s Proposed Plan Modifications

As previously noted, PECO is requesting approval of five modifications to its Phase IV Plan. The proposed changes include, as PECO classifies them, both “major” changes and “minor changes.” In summary, PECO proposes the following changes to its Phase IV Plan:

1. Transfer of Approximately \$12.1 Million from the Large C&I Rate Class to the Small C&I Rate Class Within the Non-Residential Program to Support Higher Than Originally Forecasted Adoption of Midstream Point-of-Sale (POS) Measures by Small C&I Customers (Major Change).
2. Transfer of Approximately \$1.5 Million from the Large C&I Sector Budget in the Non-Residential Program to the Large C&I Sector Budget in the Residential Program to Support Multi-Family Measures (Minor Change).
3. Transfer of Approximately \$8.4 Million from the Large C&I Rate Class to Support Street Lighting Measures³ (\$8.35 Million Transferred to the Small C&I Rate Class and \$99,408 Transferred to the Municipal Lighting Rate Class) (Major Change).
4. Addition of Measures and Modification of Measures in the Residential Program and Income-Eligible Program (Minor Change).

³ PECO represents that the term “Street Lighting Measures” refers to light emitting diode (LED) Pole/Arm Mounted Parking and Roadway Fixtures and Retrofit Kits. These measures are available to Municipal Lighting, Small C&I, and Large C&I customers.

5. Updated peak demand reduction (PDR) Values for the Residential Home Energy Reports (HER) Program and Income-Eligible HER Program (Minor Change).

Petition at 1-2. These Proposed Plan Modifications are discussed in greater detail in Section III.B, *infra*.

PECO explains that if its Petition is approved, the Company will need to amend its associated existing Commission-approved Conservation Service Provider (CSP) implementation contracts and to obtain Commission approval of those amendments. PECO adds that if its below proposed budgetary transfers are approved, the Company may also request Commission approval of an interim revision of its Energy Efficiency and Conservation Program Cost (EEPC) to become effective ten days from the date of filing, unless otherwise ordered by the Commission. Petition at 8.

PECO also attached two exhibits to its Petition. PECO Exhibit 1 sets forth a series of summary tables to highlight certain Plan implementation data through November 30, 2023, and to provide an overview of the Proposed Plan Modifications. PECO Exhibit 2 is a redlined amended version of its Phase IV Plan which incorporates its Proposed Plan Modifications. PECO represents that PECO Exhibit 2 details how these modifications will impact projected energy savings, peak demand reductions (PDRs), cost allocations, and budgets beginning with the current Phase IV Plan program year (*i.e.* June 1, 2023 through May 31, 2024) through the end of the Phase IV Plan (*i.e.* May 31, 2026). The Company states that PECO Exhibit 2 also shows updated PDRs for all Phase IV program years for the Residential HER Program and Income-Eligible HER Program. PECO insists that upon implementation of its Proposed Plan Modifications, its Phase IV Plan is projected to continue to exceed the Company's overall

energy savings and PDR targets, while remaining cost effective with a Total Resource Cost (TRC) value of 1.10.⁴ See, Petition at 2-3.

Additionally, PECO served a copy of its Petition on the OCA, the OSBA, the Commission's Bureau of Investigation and Enforcement (I&E), and all parties to the Company's Phase IV Plan proceeding. Further, PECO indicates that it will post the redlined version of its Phase IV Plan on its Act 129 website. Petition at 14.

B. Specific Modifications

The five Proposed Plan Modifications outlined in PECO's Petition are summarized below.

1. Transfer of Approximately \$12.1 Million from the Large C&I Rate Class to the Small C&I Rate Class Within the Non-Residential Program to Support Higher Than Originally Forecasted Adoption of Midstream POS Measures by Small C&I Customers (Major Change)

PECO proposes to transfer \$12.1 million from the Large C&I rate class to the Small C&I rate class to support higher than originally forecasted adopted of midstream POS measures by Small C&I customers. According to PECO, the actual expenditures for the Large C&I class have been "substantially below" the forecasts in the Company's Phase IV Plan due to several market conditions, including lower building occupancy rates, higher interest rates, higher equipment costs and longer lead times on

⁴ The TRC test is the primary test used to analyze the cost-effectiveness of PECO's energy efficiency portfolio. The TRC test measures the total net resource expenditures of an energy efficiency program from the point of view of the utility and its ratepayers. Resource costs include changes in supply and participant costs. A program that passes this test (*i.e.*, a ratio greater than 1) is viewed as beneficial to the utility and its customers because the savings in electric costs outweigh the costs incurred by the utility and its customers. The overall portfolio of programs must have a TRC ratio of at least 1. See, Phase IV Plan at Appendix C.

efficient equipment. Additionally, PECO explains that while supply chain delays have eased for most lighting measures, they still exist for heating, ventilating and air conditioning (HVAC) and non-lighting measures, which has negatively impacted customer participation in its Phase IV Plan programs. Based on current market trends, PECO projects the expenditures and savings for the Large C&I rate class to continue to track below the levels set forth in its currently approved Phase IV Plan. Petition at 8-9.

On the other hand, PECO provides that actual expenditures for the small C&I rate class have been above the Company's original forecast. PECO explains that this is a result of strong Small C&I customer participation in the Program's midstream POS channel. The midstream POS channel, the Company continues, removes barriers to participation by eliminating certain paperwork and provides discounts at the time of sale. In turn, this streamlined process has led to greater than expected participation. Thus, PECO updated the Company's Small C&I forecast to reflect continued strong mid-stream channel participation along with increasing levels of participation in downstream and small business channels based on historic trends. The Company stresses that, given the updated forecast, the existing budget allocation to the Small C&I rate class could be depleted by March 2025. Accordingly, PECO is of the opinion that it would be prudent to transfer approximately \$12.1 million from the Large C&I rate class to the Small C&I rate class within the Non-Residential Program. Petition at 9.

2. Transfer of Approximately \$1.5 Million from the Large C&I Sector Budget in the Non-Residential Program to the Large C&I Sector Budget in the Residential Program to Support Multi-Family Measures (Minor Change)

PECO explains that the Residential Program incentivizes measures for multi-family properties, including commercially-metered properties for Small C&I or Large C&I customers. PECO posits that because actual Residential Program expenditures for the Large C&I rate class are substantially above the forecasts in the

Company's currently approved Phase IV Plan, supporting future Large C&I multi-family projects will require funds beyond the current budget allocation. More specifically, PECO submits that without additional funds, the entire Phase IV Plan budget allocation for Large C&I multi-family measures will be exhausted in 2024. Accordingly, PECO proposes to transfer approximately \$1.5 million from the Large C&I sector budget in the Non-Residential Program to the Large C&I sector budget in the Residential Program to ensure that Large C&I multi-family measures are available for the remainder of the Phase IV Plan. PECO stresses that this transfer of funds between programs will not impact the overall Large C&I sector budget. Petition at 10-11.

3. Transfer of Approximately \$8.4 Million from the Large C&I Rate Class to Support Street Lighting Measures (\$8.35 Million Transferred to the Small C&I Rate Class and \$99,408 Transferred to the Municipal Lighting Rate Class) (Major Change)

PECO explains that its Non-Residential Program has three Street Lighting Measures that are available to customers in the Municipal Lighting, Small C&I, and Large C&I rate classes. PECO states that it has recently received Street Lighting Measure incentive applications from multiple Municipal Lighting, Small C&I, and Large C&I customers that, in combination, could qualify for over \$15 million in incentives. In addition, the Company has over ninety other Street Lighting Measure applications from customers in each of the Municipal, Small C&I, and Large C&I rate classes and anticipates receiving additional applications for Street Lighting Measure incentives during the remaining term of its Phase IV Plan. Petition at 11.

PECO states that it will allocate the total projected Street Lighting Measure costs among the Municipal Lighting, Small C&I, and Large C&I rate classes in accordance with the EEPC cost allocation methodology outlined in its Phase IV Plan. Under this methodology, costs that relate to measures that are applicable to more than

one rate class or that are shown to provide system-wide benefits are allocated to each class based on the ratio of class-specific projected program costs to the total projected program costs. Petition at 11-12. PECO notes that if the Company's budgetary transfer requests described in the previous sections of this Opinion and Order are granted, the ratio of class-specific projected Non-Residential rate class costs⁵ used to allocate the projected Street Lighting costs among all Non-Residential rate classes to the total projected Non-Residential rate class costs would be as follows: 51.55% Large C&I, 47.88% Small C&I, 0.56% Municipal Lighting. *Id.* (citing PECO Exh. No. 1, Table 4).

PECO states that the total anticipated cost of its outstanding Street Lighting Measure incentive applications, including administrative costs, is approximately \$17.4 million. Applying the above allocation cost ratios, the Company would recover the Street Lighting Measure costs from its rate classes, approximately, as follows: \$9.0 million from Large C&I, \$8.4 million from Small C&I and \$99,000 from Municipal Lighting. However, the Company argues, given its overall updated expenditure forecasts for the remainder of the Phase IV Plan, neither the Small C&I rate class, nor the Municipal Lighting rate class will have sufficient funds available to support their respective allocation of Street Lighting Measure costs. To remedy this, PECO proposes to: (1) transfer approximately \$8.4 million from the Large C&I rate class to the Small C&I rate class within the Non-Residential Program; and (2) transfer approximately \$99,000 from the Large C&I rate class to the Municipal Lighting rate class within the Non-Residential Program. Petition at 12-13.

⁵ PECO explains that in calculating these ratios, it considered program-related costs, including equipment, installation, and CSP administration. However, the Company did not include common costs and marketing cost when calculating these ratios as these costs are portfolio cross cutting costs and are subject to a different allocation methodology based on the proportionality of projected 1st-year MWh, consistent with the approved Phase IV Plan. Petition at 12, n.11.

4. Addition of Measures and Modification of Measures in the Residential Program and Income-Eligible Program (Minor Change)

PECO proposes to add several new measures, and to modify certain existing measures in the Residential Program and Income-Eligible Program. According to the Company, these changes will improve Program delivery. PECO explains that several of the new measures, such as window heat pumps and smart water controls, have interim measure protocols (IMPs) that were issued by the Statewide Evaluator (SWE) after the approval of the Company's Phase IV Plan. PECO reasons that adding these as separate measures in the Phase IV Plan will enable the Company to offer more specific rebate ranges that will appropriately offset customer technology costs. In addition, PECO proposes to expand the eligible technologies for certain existing measures, broaden the incentive range for "custom" measures to accommodate emerging technologies, and consolidate some existing insulation measures to be consistent with the Technical Resource Manual (TRM). PECO submits that many of these changes will either: (1) provide residential customers with more opportunities to save energy; or (2) improve alignment among the programs and with protocols in the TRM. Petition at 13.

PECO proffered the following tables to summarize its proposed additions and modifications:

Table 7. Summary of Residential Program Measure Additions and Changes

Measure	Unit	Approved Incentive Range (\$/unit)	Proposed Incentive Range (\$/unit)	Reason for Change
Residential ENERGY STAR Heat Pump Water Heater	Water Heater	\$0 - \$700	\$0 - \$1,000	Expand incentive range allowing for flexibility due to increased costs
Residential ENERGY STAR Refrigerator	Refrigerator	\$0 - \$20	No Change	Remove Most Efficient criteria to expand qualified products
Residential ENERGY STAR Clothes Washer	Clothes Washer	\$0 - \$25	No Change	Remove Most Efficient criteria to expand qualified products
Residential ENERGY STAR Air Source Heat Pump:	Outdoor unit	\$0 - \$700	\$0 - \$1,000	Remove Most Efficient criteria to expand qualified products Expand incentive range allowing for flexibility due to increased costs
Residential High Efficiency Central A/C	Outdoor unit	\$0 - \$300	\$0 - \$1,000	Remove ENERGY STAR criteria and changed to High Efficiency due to anticipated label changes and to maintain qualified products Expand incentive range allowing for flexibility due to increased costs
Residential ENERGY STAR Ductless Mini-Split Heat Pump (per Outdoor Unit)	Outdoor unit	\$0 - \$500	\$0 - \$1,000	Remove Most Efficient criteria to expand qualified products Expand incentive range allowing for flexibility due to increased costs
Residential ENERGY STAR Integral LED fixture: Indoor	Fixture	\$0-10	\$0-30	Expand incentive range allowing for flexibility due to increased costs
Residential Advanced Power Strips	Power Strip	\$0 - \$21	\$0 - \$50	Expand incentive range allowing for flexibility due to increased costs
C&I Interior Daylighting Controls	Sensor	\$0-\$25	\$0-\$50	Expand incentive range allowing for flexibility due to increased costs
C&I Interior Occupancy Controls	Sensor	\$0-\$25	\$0-\$50	Expand incentive range allowing for flexibility due to increased costs
C&I LED Exit Sign	Lamp	\$0-\$5	\$0-\$150	Expand incentive range allowing for flexibility due to increased costs
C&I LED Parking Garage and Canopy Fixtures and Retrofit Kits	Fixture	\$0-\$6	\$0-\$110	Expand incentive range allowing for flexibility due to increased costs
C&I LED Outdoor Flood Light Fixtures	Fixture	\$0-\$35	\$0-\$110	Expand incentive range allowing for flexibility due to increased costs
C&I ECM Circulation Pump	Pump	\$0-\$25	\$0-\$30	Expand incentive range allowing for flexibility due to increased costs

Residential ENERGY STAR Ductless Mini-Split Heat Pump (per Ton)	Ton	\$0 - \$30	\$0 - \$100	Remove Most Efficient criteria to expand qualified products Expand incentive range allowing for flexibility due to increased costs
C&I Air Cooled Heat Pump	Ton	\$0-\$35	\$0-\$85	Expand incentive range allowing for flexibility due to increased costs
C&I Air Cooled Air Conditioner	Ton	\$0-\$0	\$0-\$80	Expand incentive range allowing for flexibility due to increased costs
C&I LED Replacement Lamps (Tubes)	Fixture	\$0-\$0	\$0-\$10	Expand incentive range allowing for flexibility due to increased costs
C&I LED Pole/Arm Mounted Parking and Roadway Fixtures and Retrofit Kits	Fixture	\$0-\$0	\$0-\$55	Expand incentive range allowing for flexibility due to increased costs
C&I LED Troffer Fixtures and Retrofit Kits	Fixture	\$0-\$20	\$0-\$48	Expand incentive range allowing for flexibility due to increased costs
C&I VSD retrofit on HVAC Pump	HP	\$0-\$15	\$0-\$500	Expand incentive range allowing for flexibility due to increased costs
C&I LED Wall Mount Fixtures and Retrofit Kits	Fixture	\$0-\$45	\$0-110	Expand incentive range allowing for flexibility due to increased costs
Residential A/R Dehumidifier Retirement	Per Unit	NEW	\$0 - \$71.25	Provide rebate range flexibility and measure specificity versus custom measure
Residential Adjust Thermostat Education	Per Account	NEW	\$0 - \$0	Accounting for savings attributable to in-person energy education
Residential CAC and Heat Pump Maintenance	Per System	\$0-\$175	\$0 - \$250	Administrative revision for naming consistency with the Technical Reference Manual ("TRM") Expand incentive range to allow for flexibility due to increased costs
Residential Fluorescent in unit fixture	Per Fixture	NEW	\$0 - \$73	Measure added to provide additional energy savings
Residential Ceiling/Attic, Wall, Floor and Rim Joist Insulation	Per SQFT	\$0 - \$1.50	\$0 - \$3	Administrative revision for consistency with various insulation measures in TRM; Expand incentive range allowing for flexibility due to increased costs
Residential Custom	Per kWh	\$0 - \$0.05/kWh	\$0 - \$2.20	Expand incentive range allowing for flexibility due to increased costs and potential new measures and emerging technologies as identified in the TRM, Guidance Memos or approved Interim Measure Protocols ("IMPs").
Residential Shorter Showers Education	Per Account	NEW	\$0 - \$0	Accounting for savings attributable to in-person energy education
Residential Smart Water Control	Per Unit	NEW	\$0 - \$199	New Smart Technology alternative to water heater timer. IMP approved.
Residential Wash Laundry in Cold Water Education	Per Account	NEW	\$0 - \$0	Accounting for savings attributable to in-person energy education
Residential Window Heat Pump	Per Unit	NEW	\$0 - \$2000	Cost-effective option for addressing heating and cooling zone issues. IMP approved.
Residential Drain Water Heat Recovery Units	Per Unit	NEW	\$0 - \$2000	TRM measure added to provide additional energy savings
Residential ENERGY STAR Air Purifier	Per Unit	\$0-25	\$0-\$250	Expand incentive range allowing for flexibility due to increased costs
Residential ENERGY STAR Dehumidifier	Per Unit	\$0-\$50	\$0-\$500	Expand incentive range allowing for flexibility due to increased costs

Table 8. Summary of Income-Eligible Program Measure Additions and Changes

Measure	Unit	Approved Incentive Range (\$/unit)	Proposed Incentive Range (\$/unit)	Reason for Change
Residential High Efficiency Central A/C	Ton	\$0 - \$1357	No Change	Remove ENERGY STAR criteria and change to High Efficiency due to anticipated label changes and to maintain qualified products.
Residential ENERGY STAR Heat Pump Water Heater	Water Heater	\$0 - \$2000	\$0 - \$4500	Expand incentive range to allow for flexibility due to increased costs
Residential ENERGY STAR Air Source Heat Pump: IE Direct Install)	Ton	\$0 - \$2000	\$0-\$4500	Remove Most Efficient criteria to expand qualified products Expand incentive range to allow for flexibility due to increased costs
Residential ENERGY STAR Ductless Mini-Split Heat Pump (per Ton)	Ton	\$0 - \$1500	\$0-\$6000	Remove Most Efficient criteria to expand qualified products Expand incentive range to allow for flexibility due to increased costs
Residential Drain Water Heat Recovery Units	Per Unit	NEW	\$0 - \$2000	TRM measure added to provide additional energy savings
Residential Window Heat Pump	Per Unit	NEW	\$0 - \$2000	Cost-effective option for addressing heating and cooling zone issues. IMP approved.
Residential Fluorescent in unit fixture	Per Fixture	NEW	\$0 - \$73	Measure added to provide additional energy savings
Residential Smart Water Control	Per Unit	NEW	\$0-\$199	New Smart Technology alternative to water heater timer. IMP approved.
Residential Wash Laundry in Cold Water Education	Per Account	NEW	\$0 - \$0	Accounting for savings attributable to in-person energy education
Residential Shorter Showers Education	Per Account	NEW	\$0 - \$0	Accounting for savings attributable to in-person energy education
Residential A/R Dehumidifier Retirement	Per Unit	NEW	\$0 - \$71.25	Provide rebate range flexibility and measure specificity versus custom measure
Residential Adjust Thermostat Education	Per Account	NEW	\$0 - \$0	Accounting for savings attributable to in-person energy education
Residential CAC and Heat Pump Maintenance	Per System	\$0-\$175	\$0 - \$450	Administrative revision for naming consistency with TRM Expand incentive range to allow for flexibility due to increased costs
Residential ENERGY STAR Dehumidifier	Per Unit	NEW	\$0-\$500	TRM measure added to provide additional energy savings
Residential ENERGY STAR Air Purifier	Per Unit	\$0-\$70	\$0-\$250	Expand incentive range allowing for flexibility due to increased costs

PECO Exh. 1 at Tables 7 and 8.

5. Updated PDR Values for the Residential HER Program and Income-Eligible HER Program (Minor Change)

PECO explains that the Residential HER Program and Income-Eligible HER Program are behavioral programs that use tailored energy reports to encourage customers to reduce their energy usage. PECO continues that the PDR projections for these programs, as set forth in its currently approved Phase IV Plan, were developed before the SWE updated its Evaluation Framework to address the calculation of PDRs from Phase IV behavioral programs. PECO says that subsequent to the approval of its Phase IV Plan, the SWE has issued an updated Evaluation Framework concerning PDRs from Phase IV behavioral programs; and PECO has contracted with a CSP to implement its behavioral programs. Therefore, PECO has updated its PDR projections for all Phase IV program years to reflect both the SWE’s updated Evaluation Framework and the PDR targets in the Company’s Commission-approved CSP contract. Petition at 14.

PECO provided the following tables, which summarize these updated PDR projections:

Table 9. Summary of Residential HER Program Demand Reduction Changes

Measure	Metric	PY13	PY14	PY15	PY16	PY17	Total
Home Energy Reports	Approved Plan – Demand Reduction (MW)	8.39	9.93	8.67	8.59	8.37	43.95
	Plan Update - Demand Reduction (MW)	4.22	5.00	4.36	4.32	6.60	24.50

Table 10. Summary of Income-Eligible HER Program Demand Reduction Changes

Measure	Metric	PY13	PY14	PY15	PY16	PY17	Total
Home Energy Reports	Approved Plan – Demand Reduction (MW)	.1908	.2874	.1908	.2874	.2099	1.1663
	Plan Update - Demand Reduction (MW)	.02	.02	.02	.02	.03	.10

PECO Exh. 1 at Tables 9 and 10.

6. Disposition

On consideration of the record evidence, we shall grant PECO’s Petition consistent with the following discussion. Initially, we note that, in accordance with the *Minor Plan Change Order*, PECO served its Petition on the OCA, the OSBA, I&E, and all other parties that were parties of record in its Phase IV Plan Proceeding. In addition, PECO posted a copy of its Proposed Plan Modification on its website. Moreover, PECO met with interested stakeholders to provide them with an overview of the Company’s proposals. *See*, Petition at 14. Thus, stakeholders representing a wide range of interests had an opportunity to review PECO’s Petition and to provide any comments in opposition, thereto. However, the Proposed Plan Modifications were uncontested.⁶ In our view, the lack of opposition to the Proposed Plan Modifications lends persuasive support to a finding that they are just and reasonable.

Next, we find that PECO has provided substantial evidence to demonstrate that the Proposed Plan Modifications are warranted. For example, PECO provided the following table to support its position that its proposal to transfer \$12.1 million from the

⁶ As previously noted, the OCA explicitly filed a Letter indicating that it does not oppose PECO’s Petition. OCA Letter at 2.

Large C&I class to the Small C&I rate class to support higher than originally forecasted adoption of midstream POS measures by Small C&I customers is warranted.

Table 1. PY13 + PY14 + PY15 through 11/30/23 (Program to Date) Actual Spend Vs. Plan Budget by Rate Class

Rate Class	Program to Date Approved Plan Budget	Rate Class Share - Approved Plan	Program to Date Rate Class Spend - Actual	Rate Class Share - Actual	Program to Date Actual - Plan Variance (Plan - Actual)	% Actual Spend vs Plan Budget
Residential (RESI)	\$67,406,777	32.43%	\$69,730,649	37.05%	\$2,323,872	103.45%
Small C&I (SCI)	\$59,321,749	28.54%	\$67,559,575	35.90%	\$8,237,826	113.89%
Large C&I (LCI)	\$80,258,632	38.62%	\$50,012,187	26.58%	-\$30,246,445	62.31%
Municipal Lighting (ML)	\$847,445	0.41%	\$887,851	0.47%	\$40,406	104.77%
Totals	\$207,834,603	100.00%	\$188,190,262	100.00%	-\$19,644,341	90.55%

PECO Exh. 1 at Table 1. As this table illustrates, PECO’s actual expenditures for the Small C&I rate class are substantially above the original forecasts, while its actual expenditures for the Large C&I rate class are substantially below the forecasts in the Company’s approved Phase IV Plan. As such, we agree with PECO that its proposed transfer of \$12.1 Million will be prudent to assure that there is sufficient funding.

Additionally, PECO has provided evidence to demonstrate that its Phase IV Plan will remain cost effective. Namely, PECO’s Phase IV Plan, as revised by its Petition, shows an overall TRC value of 1.10 for the Plan, inclusive of all common costs. See Petition at 3, 7; Phase IV Plan at 7, Figure 5. Further, PECO demonstrated that the overall budget for the Phase IV Plan will not be impacted. See, Petition at 5; Phase IV Plan at 155.⁷

Based on the forgoing, we are persuaded by PECO’s Proposed Plan Modifications and supporting rational that modification of our *March 2021 Order* approving PECO’s Phase IV EE&C Plan is warranted. We further conclude that PECO’s

⁷ Pursuant to Act 129, EDCs are entitled to full and current cost recovery of prudent and reasonable costs, including administrative costs, but annual plan expenditures are limited to 2% of the EDC’s total annual revenue as of December 31, 2006. 66 Pa. C.S. §§ 2806.1(g),(k). For PECO, this 2% cost cap is approximately \$85,477,166 per program year. Phase IV Plan at 155.

Proposed Plan Modifications are reasonable and in the public interest, and that no further investigation into the Petition is necessary at this time. Accordingly, we shall grant PECO's Proposed Plan Modifications, which: (1) transfer approximately \$12.1 million from the Large C&I rate class to the Small C&I rate class within the Non-Residential Program to support higher than originally forecasted adoption of midstream POS measures by Small C&I customers; (2) transfer approximately \$1.5 million from the Large C&I sector budget in the Non-Residential Program to the Large C&I sector budget in the Residential Program to support non-residentially metered multi-family measures; (3) transfer approximately \$8.4 million from the Large C&I rate class to the Small C&I rate class within the Non-Residential Program to support Street Lighting Measures; (4) transfer approximately \$99,000 from the Large C&I rate class to the Municipal Lighting rate class within the Non-Residential Program to support Street Lighting Measures; and (5) adds new measures and modifies existing measures in the Residential Program and Income-Eligible Program, without impacting the Company's cost cap.

IV. Conclusion

For the reasons discussed herein, we will: (1) grant PECO's Petition; and (2) approve PECO's Proposed Plan Modifications; **THEREFORE,**

IT IS ORDERED:

1. That the Petition of PECO Energy Company for Approval of Changes to its Phase IV Act 129 Energy Efficiency and Conservation Plan, filed on March 4, 2024, is granted, consistent with this Opinion and Order.

2. That PECO Energy Company is permitted to implement its Revised Act 129 Phase IV Energy Efficiency and Conservation Plan consistent with this Opinion and Order.

3. That a copy of this Opinion and Order be served on all of the parties of record.

BY THE COMMISSION,

A handwritten signature in black ink, appearing to read "Rosemary Chiavetta". The signature is written in a cursive style with a large initial "R".

Rosemary Chiavetta
Secretary

(SEAL)

ORDER ADOPTED: May 23, 2024

ORDER ENTERED: May 23, 2024