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June 20, 2016

Via Electronic Filing

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

Re: Petition of PECO Energy Company for: (1) Approval of its Microgrid Integrated Technology Pilot Plan and (2) Issuance of a Declaratory Order Regarding the Recovery of Microgrid Costs; Docket No. P-2016-2546452; and

Application for Construction of Microgrid Distributed Energy Resources Fueled by Natural Gas; Docket No. A-2016-2546450

Dear Secretary Chiavetta:

Enclosed for electronic filing please find the Petition to Intervene of the Retail Energy Supply Association ("RESA") with regard to the above-referenced matters. Copies to be served in accordance with the attached Certificate of Service.

Sincerely,



Sarah C. Stoner

SCS/lww

cc: Hon. Eranda Vero w/enc.
Hon. Cynthia W. Fordham w/enc.
Cert. of Service w/enc.

CERTIFICATE OF SERVICE

I hereby certify that this day I served a copy of RESA's Petition to Intervene upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54.

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Sarah C. Stoner, Esq.

Dated: June 20, 2016

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of PECO Energy Company for:	:	
(1) Approval of Its Microgrid Integrated	:	
Technology Pilot Plan and (2) Issuance of a	:	Docket No. P-2016-2546452
Declaratory Order Regarding the Recovery	:	
of Microgrid Costs	:	
	:	
Application for Construction of Microgrid	:	Docket No. A-2016-2546450
Distributed Energy Resources Fueled by	:	
Natural Gas	:	

**THE RETAIL ENERGY SUPPLY ASSOCIATION'S
PETITION TO INTERVENE**

Pursuant to 52 Pa. Code §§ 5.72-5.75, the public notice published in the Pennsylvania Bulletin on June 4, 2016 and the Prehearing Conference Order issued June 10, 2016, the Retail Energy Supply Association (“RESA”)¹ petitions to intervene in the Petition of PECO Energy Company (“PECO”) for Approval of its Microgrid Integrated Technology Pilot Plan (“Microgrid Pilot”) and Issuance of a Declaratory Order Regarding the Recovery of Microgrid Costs and Application of PECO for Construction of Microgrid Distributed Energy Resources Fueled By Natural Gas (“Petition and Application”). In support of its intervention, RESA states as follows:

1. On May 18, 2016, PECO filed a petition proposing a Microgrid Pilot in Concord Township, Pennsylvania. In its Petition and Application, PECO proposes to construct, own, and operate several distributed energy resource (“DER”) technologies to power a proposed microgrid which will support a footprint of approximately 388 acres in a high density area of Concord

¹ The comments expressed in this filing represent the position of the Retail Energy Supply Association (RESA) as an organization but may not represent the views of any particular member of the Association. Founded in 1990, RESA is a broad and diverse group of more than twenty retail energy suppliers dedicated to promoting efficient, sustainable and customer-oriented competitive retail energy markets. RESA members operate throughout the United States delivering value-added electricity and natural gas service at retail to residential, commercial and industrial energy customers. More information on RESA can be found at www.resausa.org.

Township (the “Microgrid Pilot”).² The Microgrid Pilot will be powered by a variety of DER technologies including natural gas reciprocating engines, ground mounted solar photovoltaic installations, batteries and electric vehicle charging stations.³ PECO takes the position that it is not prohibited from owning generation under the Electricity Generation Customer Choice and Competition Act. 66 Pa.C.S. §§ 2801-2812. As such, PECO requests that the Commission: (1) approve the project pursuant to 66 Pa.C.S. § 519; and, (2) issue a declaratory order which declares that utility-owned DERs installed as part of a microgrid constitute distribution plant assets that may be lawfully included in a public utility’s distribution rate base.⁴

2. By public notice published in the Pennsylvania Bulletin on June 4, 2016, the Commission established a deadline of June 20, 2016 for formal protests and petitions to intervene. Administrative Law Judges Cynthia W. Fordham and Eranda Vero scheduled an Initial Prehearing Conference for June 22, 2016 by Prehearing Conference Notice and a Prehearing Order dated June 10, 2016. RESA is simultaneously filing its Prehearing Conference Memorandum.

3. RESA is a trade association of retail energy suppliers who share the common vision that competitive retail electricity markets deliver a more efficient, customer-oriented outcome than does the monopoly-protected, rate-regulated utility structure. RESA members are licensed to sell electric energy in the markets of Pennsylvania’s major EDCs, including the service territory of PECO.

4. RESA’s attorneys in this matter are:

² Petition of PECO Energy Company For: (1) Approval Of Its Microgrid Integrated Technology Pilot Plan and (2) Issuance of a Declaratory Order Regarding The Recovery of Microgrid Costs; Docket No. P-2016-2546452 at ¶ 17 (filed May 18, 2016).

³ *Id.* at ¶ 19.

⁴ *Id.* at ¶¶ 39, 44.

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5. The Commission's regulations allow intervention where a person has an interest in the proceeding which may be directly affected and which is not adequately represented by existing parties, and as to which the person may be bound by the action of the Commission in the proceeding. 52 Pa. Code § 5.72(a)(2). Intervention is also permitted where participation of the person may be in the public interest. 52 Pa. Code § 5.72(a)(3). A "person" includes a corporation and an association. 52 Pa. Code § 1.8.

6. RESA meets the standards for intervention set forth in 52 Pa. Code § 5.72(a). As an organization whose members include competitive electric generation suppliers ("EGSs") licensed to do business in the PECO's service territory, RESA has interests that will be directly affected by this proceeding. PECO's proposal to construct, own and operate several DERs which will power a proposed microgrid presents many legal, technical and economic challenges that directly impact EGSs.

7. Energy efficiency and demand response are best delivered by competitive retail suppliers offering market-based solutions rather than through regulated distribution companies. In addition to offering competitive generation supply to retail end user customers, some EGSs offer their own distributed generation systems and some work with other entities that design projects similar to PECO's proposal here. The Microgrid Pilot would require ratepayers to bear

the risk of PECO's investment decision and threatens to stymie the investment of private investment dollars into Pennsylvania to develop new technologies like microgrids. Innovation is largely driven by competitive companies investing shareholder dollars and putting their own capital at risk. PECO's proposal threatens to negatively impact this potential because private companies cannot compete with a traditional utility that is guaranteed cost recovery for microgrid projects. Thus, the outcome of this proceeding will directly impact the ability of EGSs to provide competitive distributed generation systems in Pennsylvania.

8. Furthermore, electric distribution companies ("EDCs") have divested their generation assets as part of the implementation of the Competition Act. PECO's Petition and Application seeks renewed ownership of generation assets as part of the regulated utility function. As such PECO's construction, ownership and operation of the DERs could present the opportunity for the historical monopoly utility company to engage in anti-competitive activities which could adversely affect the working of competitive energy markets in Pennsylvania. RESA has concerns regarding equal access to customer data and the ability of EGSs to provide competitive service to customers within the microgrid. These issues may impact the ability of EGSs to provide competitive generation service to retail customers. RESA has identified the following issues that should be determined in this proceeding:

(a) How will PECO's construction of DER affect the ability of suppliers to sell electric generation products and services to retail customers in PECO's service territory?

(b) How will PECO's proposal to treat EGS sales when the microgrid is "islanded" affect sales to and relationships with supplier's customers who are included with the "island?"

(c) Will the sale of the output of PECO's proposed subsidized DER facilities into the wholesale market have a negative effect on the wholesale market price of electricity that will inure to the detriment of suppliers?

(d) Is PECO's proposal to own and operate electric generation consistent with its legal authority as an electric distribution company pursuant to the Public Utility Code?

(e) Is PECO's proposal to be permitted to rate base and include in its PUC-regulated Tariff distributed generation projects consistent with 66 Pa.C.S. § 2802(14) (which states that: "[t]he generation of electricity will no longer be regulated as a public utility function except as otherwise provided for us in this chapter.") or other provisions of the Electricity Generation Customer Choice and Competition Act?

9. Approving PECO's Petition and Application may make consumers more likely to perceive that distributed energy offerings are available only from the traditional monopoly provider and thereby serve to reinforce the historical EDC-customer monopoly relationship. This would be in contravention of the requirement of the Competition Act to foster the development of a competitive retail market by allowing EDC distributed energy plans to "crowd out" similar competitive market offerings. Such result would directly impact the ability of EGSs to provide competitive offerings.

10. Finally, PECO's Petition and Application raises concerns regarding cross-subsidization because it proposes to utilize ratepayer dollars to benefit a small set of customers.

11. RESA's interests in this proceeding are unique from and not adequately represented by other parties that may seek to intervene, including individual EGSs or other organizations interested in electric competition in Pennsylvania in general and in PECO's service

territories in particular. This is because RESA represents the interests of a diverse and broad group of electric generation suppliers in general and not the interests of any individual member.

12. RESA's members will be bound by the action of the Commission in this proceeding, which will adjudicate PECO's proposal to utilize ratepayer dollars to construct, own and operate several distributed energy resource technologies to provide power to a proposed microgrid.

13. RESA's intervention is in the public interest. RESA's participation will enable it to contribute the unique perspectives and insights of a trade association representing multiple EGSs and complete presentation of the issues to be addressed in this proceeding. It should be noted that RESA is actively participating in matters involving PECO including the current default service proceeding.

14. RESA's list of presently identified issues is set forth in its Prehearing Conference Memorandum, which is incorporated herein by reference. Due to the early stage of this proceeding, RESA reserves the right to raise and address issues identified through its continued review and analysis of PECO's filing (and related information), or other issues raised by other parties.

WHEREFORE, RESA respectfully requests that the Commission grant RESA's Petition to Intervene.

Respectfully submitted,



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