



An Exelon Company

W. Craig Williams
Assistant General Counsel
2301 Market Street / S23-1
Philadelphia, PA 19103

Direct Dial: 215-841-5974

May 16, 2018

VIA eFILING

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

Re: Pennsylvania Public Utility Commission v. PECO Energy Company
Docket No. R-2018-3000164

Dear Secretary Chiavetta:

Enclosed please find, in the above-referenced matter, **PECO Energy Company's Answer to the Petition to Intervene of the Retail Energy Supply Association.**

If you have any questions, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read "Craig Williams", with a long horizontal line extending to the right.

W. Craig Williams

Enclosures

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

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**PENNSYLVANIA PUBLIC UTILITY
COMMISSION**

v.

PECO ENERGY COMPANY

:
:
:
:
:
:

DOCKET NO. R-2018-3000164

CERTIFICATE OF SERVICE

I hereby certify and affirm that I have this day served a copy of the **PECO Energy Company's Answer to the Petition to Intervene of the Retail Energy Supply Association** on the following persons in the manner specified in accordance with the requirements of 52 Pa. Code § 1.54:

VIA ELECTRONIC MAIL, eROOM AND/OR FIRST CLASS MAIL

Honorable Christopher P. Pell
Deputy Chief Administrative Law Judge
Office of Administrative Law Judge
801 Market Street, Suite 4063
Philadelphia, PA 19107
cpell@pa.gov

Honorable F. Joseph Brady
Administrative Law Judge
Office of Administrative Law Judge
801 Market Street, Suite 4063
Philadelphia, PA 19107
fbrady@pa.gov

Carrie B. Wright
Prosecutor
Bureau of Investigation & Enforcement
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, Second Floor
Harrisburg, PA 17120
carwright@pa.gov

Elizabeth Rose Triscari
Deputy Small Business Advocate
Office of Small Business Advocate
300 North Second Street, Suite 202
Harrisburg, PA 17101
etriscari@pa.gov

Christy M. Appleby
Hayley Dunn
Assistant Consumer Advocates
Aron J. Beatty
Senior Assistant Consume Advocate
Office of Consumer Advocate
Forum Place, 5th Floor
555 Walnut Street
Harrisburg, PA 17101-1923
cappleby@paoca.org
hdunn@paoca.org
abeatty@paoca.org

Patrick M. Cicero
Elizabeth R. Marx
Kadeem G. Morris
Pennsylvania Utility Law Project
118 Locust Street
Harrisburg, PA 17101
pulp@palegalaid.net
Counsel for CAUSE-PA

Scott J. Rubin
333 Oak Lane
Bloomsburg, PA 17815-2036
scott.j.rubin@gmail.com
Counsel for IBEW

Charles T. Joyce
Spear Wilderman, P.C.
230 South Broad Street, Suite 1400
Philadelphia, PA 19102
ctjoyce@spearwilderman.com
Counsel for IBEW

Roger E. Clark
905 Denston Drive
Ambler, PA 19002
roger@rogerclarkconsulting.com
Counsel for DVRPC

Joseph L. Vullo
1460 Wyoming Avenue
Forty Fort, PA 18704
jlvullo@bvrrlaw.com
Counsel for CAAP

David P. Zambito
Jonathan P. Nase
Cozen & O'Connor
Suite 1410
17 North Second Street
Harrisburg, PA 17101
dzambito@cozen.com
jnase@cozen.com
*Counsel for The Trustees of the
University of Pennsylvania*

Charis Mincavage
Adeolu Bakare
Alessandra Hylander
McNees Wallace & Nurick LLC
P.O. Box 1166
100 Pine Street
Harrisburg, PA 17101-1166
cmincavage@mcneeslaw.com
abakare@mcneeslaw.com
ahylander@mcneeslaw.com
Counsel for PAIEUG

Roman Petyk, Assoc. General Counsel
The University of Pennsylvania
Office of General Counsel
2929 Walnut Street
FMC Tower, Suite 400
Philadelphia, PA 19104-5099
Roman.petyk@ogc.upenn.edu
Counsel for University of Pennsylvania

Donald R. Wagner
Linda R. Evers
Michael A. Gruin
Stevens & Lee
111 N. Sixth Street
Reading, PA 19601
drw@stevenslee.com
lre@stevenslee.com
mag@stevenslee.com
Counsel for WalMart

Gregory W. Tillman
Walmart Inc.
2001 Southeast 10th Street
Bentonville, Reliant 72716-5530
greg.tillman@walmart.com

Joline R. Price
Robert W. Ballenger
Community Legal Services, Inc.
1424 Chestnut Street
Philadelphia, PA 19102
jprice@clsphila.org
rballenger@clsphila.org
Counsel for TURN et al.

David S. Habr
Habr Economics
213 Cornuta Way
Nipomo, CA 93444-5020
david.habr@habreconomics.com
Consultant for OCA

Mark C. Hammond
Land Air Water Legal Solutions, LLC
1000 Westlakes Dr., Suite 150
Berwyn, PA 19312
mhammond@landairwater.com
Counsel for Tesla

Karen O. Moury
Eckert Seamans Cherin & Mellott, LLC
213 Market Street, 8th Floor
Harrisburg, PA 17101
kmoury@eckertseamans.com
Counsel for NRG Energy

Deanne M. O'Dell
Sarah C. Stoner
Eckert Seamans Cherin & Mellott, LLC
213 Market Street, 8th Floor
Harrisburg, PA 17101
dodell@eckertseamans.com
sstoner@eckertseamans.com
Counsel for RESA

Jeffrey Pollock
J. Pollock, Inc.
12647 Olive Boulevard, Suite 585
St. Louis, MO 63141
jep@jpollockinc.com
Consultant for PAIEUG

David J. Effron
Berkshire Consulting Services
12 Pond Path
Northampton, NH 03862
djeffron@aol.com
Consultant for OCA

Roger D. Colton
Fisher, Sheehan & Colton
34 Warwick Road
Belmont, MA 02478
roger@fsconline.com
Consultant for OCA

Clarence L. Johnson
CJEnergy Consulting
3707 Robinson Avenue
Austin, TX 78722
cjenergyconsult@att.net
Consultant for OCA

Brian Kalcic
Excel Consulting
Suite 720-T
225 South Meramac Avenue
St. Louis, MO 63105
excel.consulting@sbcglobal.net
Consultant for OSBA



Romulo L. Diaz, Jr. (Pa. No. 88795)
Jack R. Garfinkle (Pa. No. 81892)
W. Craig Williams (Pa. No. 306405)
Michael S. Swerling (Pa. No. 94748)
PECO Energy Company
2301 Market Street
Philadelphia, PA 19103
215.841.5974 (dir)
215.568.3389 (fax)
romulo.diaz@exeloncorp.com
jack.garfinkle@exeloncorp.com
craig.williams@exeloncorp.com
michael.swerling@exeloncorp.com

Kenneth M. Kulak (Pa. No. 75509)
Anthony C. DeCusatis (Pa. No. 25700)
Catherine G. Vasudevan (Pa. No. 210254)
Morgan, Lewis & Bockius LLP
1701 Market Street
Philadelphia, PA 19103
215.963.5384 (dir)
215.963.5001 (fax)
ken.kulak@morganlewis.com
anthony.decusatis@morganlewis.com
catherine.vasudevan@morganlewis.com

Dated: May 16, 2018

Counsel for PECO Energy Company

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PENNSYLVANIA PUBLIC UTILITY COMMISSION	:	
	:	
	:	
v.	:	Docket No. R-2018-3000164
	:	
PECO ENERGY COMPANY	:	

**ANSWER OF PECO ENERGY COMPANY TO
THE RETAIL ENERGY SUPPLY ASSOCIATION’S PETITION TO INTERVENE**

Pursuant to 52 Pa. Code § 5.66, PECO Energy Company (“PECO” or the “Company”) submits this Answer to the Petition to Intervene filed by the Retail Energy Supply Association (“RESA”) on May 4, 2018 in the above-referenced docket. As explained below, RESA is attempting to interject into this case, which is statutorily limited in subject matter and time,¹ alleged interests that should not be considered in this electric base rate proceeding. These issues include the “billing relationship” between electric distribution companies (“EDCs”) and their customers which RESA is already addressing in the Supplier Consolidated Billing (“SCB”) *en banc* proceeding initiated by the Pennsylvania Public Utility Commission (the “Commission”).²

The Commission’s regulations provide express authority to the Administrative Law Judges to limit the participation of intervenors.³ PECO therefore requests that the Administrative Law Judges exercise their authority to limit the scope of RESA’s intervention to issues that are

¹ See 66 Pa.C.S. § 1308(d) (defining a “general rate increase” and setting a statutory timeline of seven months for the issuance of a final order).

² See Notice of *En Banc* Hearing on Supplier Consolidated Billing, Docket No. M-2018-2645254 (Notice issued Mar. 27, 2018). RESA filed comments and attachments in the SCB proceedings totaling 148 pages. See Comments on Behalf of the Retail Energy Supply Association, Docket No. M-2018-2645254 (filed May 4, 2018).

³ 52 Pa. Code § 5.75 (providing that the presiding officer “may, if found to be appropriate, authorize limited participation” by an intervenor).

properly addressed in the context of this base rate proceeding and thereby facilitate the creation of a complete and well-developed evidentiary record within the statutory timeline imposed by 66 Pa.C.S. §1308(d).

I. RELEVANT BACKGROUND

On March 29, 2018, PECO filed with the Pennsylvania Public Utility Commission (“Commission”) Tariff Electric – Pa. P.U.C. No. 6 (“Tariff No. 6”). By Order issued April 19, 2018, the Commission instituted a formal investigation to determine the lawfulness, justness and reasonableness of PECO’s existing and proposed rates, rules and regulations. Accordingly, Tariff No. 6 was suspended by operation of law until December 28, 2018.⁴

On May 4, 2018, RESA filed its Petition to Intervene, explaining that it is a trade group of twenty retail energy suppliers operating throughout the United States.⁵ RESA identified the following specific issues in its Petition to Intervene: “(1) the proposed Electric Vehicle Direct Current Fast Charger Pilot Rider; (2) PECO’s initiatives to improve the direct billing relationship it has with its distribution customers; (3) PECO’s proposed modifications to net metering eligibility; (4) PECO’s proposed allocation of costs to distribution functions that are related to the provision of default service and should be removed from distribution changes; and (5) proposals to streamline the interconnection process for distributed generation technologies.”⁶ RESA also generally asserted concerns with PECO’s alleged efforts to use “ratepayer funded resources to offer value-added, generation-related products and services that are more appropriately offered in the competitive market” and a need to analyze alleged “allocation of

⁴ Order, *Pa. P.U.C. v. PECO Energy Company*, Docket No. R-2018-3000164 (Order entered Apr. 19, 2018). In accordance with the Commission’s April 19 Order and Section 53.71 of the Commission’s regulations, 52 Pa. Code § 53.71, PECO filed a tariff supplement suspending Tariff No. 6. *See* Supplement No. 1 to Tariff Electric – Pa. PUC No. 6 Suspending Original Tariff No. 6 Until December 28, 2018, Docket No. R-2018-3000164 (filed April 27, 2018).

⁵ Petition to Intervene of Retail Energy Supply Association, p. 1 (“RESA Petition to Intervene”).

⁶ *Id.*, p. 3.

costs to distribution functions that are related to the provision of default service . . . to ensure that the cost allocation does not negatively impact the ability of EGSs to present competitive products to consumers in PECO's service territory.”⁷

On May 8, 2018, a Prehearing Conference was convened by Deputy Chief Administrative Law Judge Christopher P. Pell and Administrative Law Judge F. Joseph Brady (collectively, the “ALJs”). At the Prehearing Conference, the ALJs established a deadline of May 16, 2018 for responses to RESA’s Petition to Intervene, among other filings.

II. ANSWER

1. Admitted.
2. Admitted.
3. Admitted.
4. Denied as stated. The language in 52 Pa. Code §§ 1.8, 5.72(a)(2) and 5.72(a)(3) speaks for itself.

5. Denied in part. It is admitted that RESA’s interest in PECO’s proposed Electric Vehicle Direct Current Fast Charger Pilot Rider, the allocation of costs between PECO’s distribution and default service functions, the Company’s proposed changes to existing net metering provisions, and the testimony of PECO witnesses discussing PECO’s improvements in the distributed generation interconnection process provide a legitimate basis for intervention by RESA. It is denied that RESA’s remaining asserted interests provide a valid basis for RESA to intervene in this proceeding for the following reasons.

“Direct Billing Relationship” and “Value-Added” Products. The Commission has initiated an *en banc* proceeding to specifically consider SCB and its relationship to other billing

⁷ *Id.*

options and new products for customers.⁸ In its 148-page filing in the *en banc* proceeding, RESA presented its view that “implementation and subsequent innovation provided by SCB will address the absence of a **direct relationship** between an EGS and its customers” and raised various concerns regarding products offered by EDCs, including PECO, that RESA believes should only be offered by electric generation suppliers (“EGSs”).⁹ RESA also made suggestions to the Commission “to ensure that a full and complete record is developed” in the SCB proceedings.¹⁰

RESA’s SCB comments underscore exactly why RESA’s alleged “initiatives to improve the direct billing relationship [PECO] has with its distribution customers” and its vague “concerns” that PECO is offering “value-added” products are impermissible justifications for intervention in this proceeding. RESA is *already* seeking to address the “direct billing relationship” between EDCs and their customers and the types of programs that EDCs and EGSs should be offering in the SBC proceeding, as well as arguing that the SCB proceeding is the appropriate place for the Commission to develop a full record that includes those issues. Examining the “billing relationship” and issues related to “valued-added services” with a smaller group of stakeholders and a single EDC is likely to lead to results inconsistent with the *en banc* proceeding, especially in light of the time limitations of Section 1308(d), and the ALJs should therefore preclude these topics from RESA’s participation in this proceeding.¹¹

⁸ See March 27, 2018 Notice of *En Banc* Hearing on Implementation of Supplier Consolidated Billing, Docket No. M-2018-2645254.

⁹ RESA Comments, p. 1 (discussing “direct relationship”) (emphasis added); pp. 9-11 (discussing offerings by FirstEnergy utilities), & p. 14 (discussing PECO’s prepaid service offering).

¹⁰ *Id.*, pp. 3-4.

¹¹ *Cf.* Opinion and Order, *Pa. P.U.C. v. Duquesne Light Company*, Docket No. R-2013-2372129 (Order entered April 23, 2014) (adopting recommendation of administrative law judge to sever tariff provisions proposed by several NRG affiliates from an electric distribution rate case proceeding after finding that “there simply was insufficient time to render a thorough and reasoned decision on these issues within the regulatory time constraints inherent in a Section 1308(d) base rate proceeding”).

“Proposals to Streamline the Interconnection Process for Distributed Generation Technologies.” As described in the Direct Testimony of Mr. Schlesinger (PECO Statement No. 8), the Company is proposing certain clarifying changes to net metering provisions. Mr. Schlesinger also described PECO’s fulfillment of its commitment to revise terms and conditions for the interconnection of customer-sited distributed generation in accordance with the settlement of its 2015 electric base rate proceedings and improvements PECO has already implemented to streamline the distributed generation interconnection process (which are also discussed by Mr. Innocenzo in PECO Statement No. 1).

PECO has not made any “proposals” to further streamline the interconnection process for distributed generation in this proceeding. To the extent that RESA is seeking to introduce new proposals, PECO does not believe that such interests provide a valid basis for intervention in this distribution base rate proceeding. The challenges of creating a complete and well-developed evidentiary record on the issues that are properly within the scope of this base rate proceeding should not be heightened by interjecting entirely new (and as yet unidentified) proposals relating to distributed generation that will not receive proper consideration under a litigation schedule that was not designed or intended to accommodate them.

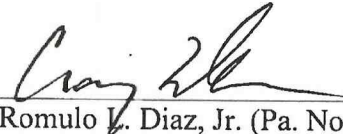
6. Denied in part. For the reasons set forth above, several of RESA’s alleged interests are not within the scope of this proceeding in light of other Commission proceedings and therefore do not provide a basis for its request to intervene.

7. Denied in part. For the reasons set forth above, several of RESA’s alleged interests are not within the scope of this proceeding in light of other Commission proceedings and therefore do not provide a basis for its request to intervene.

8. Denied in part. For the reasons set forth above, several of RESA's alleged interests are not within the scope of this proceeding in light of other Commission proceedings and therefore do not provide a basis for its request to intervene.

9. Denied in part. For the reasons set forth above, several of RESA's alleged interests are not within the scope of this proceeding in light of other Commission proceedings and therefore do not provide a basis for its request to intervene.

WHEREFORE, for the foregoing reasons, PECO Energy Company requests that the ALJs exercise their authority to limit the scope of RESA's intervention to (i) PECO's proposed Electric Vehicle Direct Current Fast Charger Pilot Rider; (ii) the allocation of costs between PECO's distribution and default service functions; (iii) PECO's proposed changes to net metering tariff provisions; and (iv) the Company's fulfilment of commitments made in the settlement of its 2015 electric base rate proceeding concerning the interconnection of distributed generation and other existing interconnection improvements discussed in the direct testimony of Mr. Richard Schlesinger (PECO Statement No. 8) and Mr. Michael Innocenzo (PECO Statement No. 1).



Romulo L. Diaz, Jr. (Pa. No. 88795)
Jack R. Garfinkle (Pa. No. 81892)
W. Craig Williams (Pa. No. 306405)
Michael S. Swerling (Pa. No. 94748)
PECO Energy Company
2301 Market Street
Philadelphia, PA 19103
215.841.5974 (dir)
215.568.3389 (fax)
romulo.diaz@exeloncorp.com
jack.garfinkle@exeloncorp.com
craig.williams@exeloncorp.com
michael.swerling@exeloncorp.com

Kenneth M. Kulak (Pa. No. 75509)
Anthony C. DeCusatis (Pa. No. 25700)
Catherine G. Vasudevan (Pa. No. 210254)
Morgan, Lewis & Bockius LLP
1701 Market Street
Philadelphia, PA 19103
215.963.5384 (dir)
215.963.5001 (fax)
ken.kulak@morganlewis.com
anthony.decusatis@morganlewis.com
catherine.vasudevan@morganlewis.com

Dated: May 16, 2018

Counsel for PECO Energy Company