



COMMONWEALTH OF PENNSYLVANIA

May 1, 2020

E-FILED

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

Re: Petition Of PECO Energy Company For Approval Of Its Default Service Program For The Period From June 1, 2020 Through May 31, 2025 / Docket No. P-2020-3019290

Dear Secretary Chiavetta:

Enclosed for filing please find the Prehearing Memorandum, on behalf of the Office of Small Business Advocate ("OSBA"), in the above-captioned proceeding. I respectfully request that a copy of any documents filed in this case also be shared with our witness at the address below:

Brian Kalcic
Excel Consulting
225 S. Meramec Avenue, Suite 720
St. Louis, MO 63105
(314)725-2511
excel.consulting@sbcglobal.net

Copies will be served on all known parties in this proceeding, as indicated on the attached Certificate of Service.

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

Sincerely,

/s/ Erin K. Fure

Erin K. Fure
Assistant Small Business Advocate
Attorney ID No. 312245

Enclosures

cc: Brian Kalcic

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition Of PECO Energy Company For :
Approval Of Its Default Service Program :
For The Period From June 1, 2020 : **Docket No. P-2020-3019290**
Through May 31, 2025 :

**OFFICE OF SMALL BUSINESS ADVOCATE
PREHEARING MEMORANDUM**

I. INTRODUCTION

The Office of Small Business Advocate (“OSBA”) is authorized to represent the interests of small business customers of utility services before the Pennsylvania Public Utility Commission (“PUC” or the “Commission”) pursuant to the provisions of the Small Business Advocate Act, Act 181 of 1988, 73 P.S. §§ 399.41 – 399.50 (“the Act”). In order to discharge this statutory duty, the Small Business Advocate deems it necessary to participate as a party to this proceeding. Representing the OSBA in this matter are Assistant Small Business Advocate Erin K. Fure and Assistant Small Business Advocate Daniel G. Asmus. Please address all correspondence in this matter as follows:

Erin K. Fure
Daniel G. Asmus
Assistant Small Business Advocate
Office of Small Business Advocate
555 Walnut Street, 1st Floor
Harrisburg, PA 17101
(717) 783-2525
(717) 783-2831 (fax)
efure@pa.gov
dasmus@pa.gov

II. FILING BACKGROUND

On March 13, 2020 PECO Energy Company (“PECO” or the “Company”) filed a Petition seeking Commission approval of its fifth Default Service Program (“DSP V”). On April 1, 2020, the Philadelphia Area Industrial Energy Users Group (“PAIEUG”) and the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (“CAUSE-PA”) each filed a Petition to Intervene.

On April 2, 2020, the OSBA filed a Notice of Appearance, Notice of Intervention, Public Statement and Answer to PECO’s Petition. On April 3, 2020, the Office of Consumer Advocate (“OCA”) filed a Notice of Intervention, Public Statement, and Answer to PECO’s Petition.

On April 10, 2020, the Tenant Union Representative Network (“TURN”) and Action Alliance of Senior Citizens of Greater Philadelphia (“Action Alliance”) jointly filed a Petition to Intervene. On April 14, Calpine Retail Holdings, LLC filed a Petition to Intervene.

A Pre-Hearing Conference Notice was issued on April 20, 2020 scheduling the pre-hearing conference in this matter for May 5, 2020 before Administrative Law Judge (“ALJ”) Eranda Vero.

On April 24, 2020, Calpine Retail Holdings, LLC filed a Motion for Admission *Pro Hac Vice* of James H. Laskey.

On April 30, 2020, StateWise Energy Pennsylvania LLC and SFE Energy Pennsylvania, Inc. (“StateWise”) filed a Petition to Intervene, a Motion for Admission *Pro Hac Vice* for Kevin C. Blake, and a Motion for Admission *Pro Hac Vice* for Thomas F. Puchner.

III. IDENTIFICATION OF WITNESSES AND TENTATIVE ISSUES

Assisting in the development and presentation of the OSBA's case in this proceeding will be:

Mr. Brian Kalcic
Excel Consulting
Suite 720-T
225 S. Meramec Avenue
St. Louis, MO 63105
(314) 725-2511
excel.consulting@sbcglobal.net

The OSBA will participate in the case to assure that the interests of small business customers of PECO are adequately represented and protected.

As appropriate and necessary, the OSBA will investigate and analyze the claims and proposals of the Company and other parties through cross-examination of witnesses appearing for those parties and through briefing. The OSBA will particularly focus on any issue where the impact on the interests of the small business consumers would be unjustifiably different than or disproportionate to the impact on another class of customers, or otherwise lacking in reasonableness or basic fairness.

After an initial review of the materials submitted by PECO, the OSBA has identified the following issues:

1. Whether PECO's default service procurement plan for Small Commercial (below 100 kW) customers consisting of equal shares of one-year and two-year fixed price full requirements products is appropriate;
2. Whether PECO's proposed optional time-of-use ("TOU") rate design for Small Commercial customers is appropriate;
3. Whether PECO's proposed method of recovering its actual costs of implementing

TOU rate options from the Residential and Small Commercial procurement classes is reasonable; and

4. Whether PECO's proposal to procure the supply for Small Commercial TOU customers in the fixed price full requirements products used to supply the Small Commercial procurement class is appropriate.

The OSBA reserves the right to pursue additional issues after reviewing the testimony of the parties and as issues arise throughout the proceeding.

IV. DISCOVERY

Discovery is ongoing. The OSBA will work with the Presiding Officers and the other parties to develop any mutually acceptable discovery modifications.

V. SERVICE OF DOCUMENTS

In accordance with 52 Pa. Code § 1.54(b)(3)(i), the OSBA agrees to accept electronic mail delivery of documents on the due date¹ as satisfying the in-hand requirement, provided that such documents are followed by hard copy delivery to OSBA. Hard copy delivery may be accomplished by first class mail, by personal hand delivery, or by overnight courier.² Service by electronic mail only is not sufficient. The OSBA requests that such hard copies are also provided to its witnesses identified above.

In addition to hard copies of pleadings, briefs, and exceptions, the OSBA requests hard

¹ In accordance with 52 Pa. Code § 1.56(a)(5), documents must be received by 4:30 pm.

² See 52 Pa. Code §§ 1.54(b)(1), 1.54(b)(2), and 1.56(a)(2). Regarding the *perfection of service*, the OSBA respectfully submits that 52 Pa. Code § 1.56(a)(2), as currently written, does not satisfy the requirements of due process.

copies of responses to discovery propounded by the OSBA or any other party. The OSBA also requests that all parties serve an electronic copy of all interrogatory responses upon the OSBA and the OSBA witnesses identified above.

VI. SETTLEMENT

The OSBA notes its willingness to enter into settlement discussions at the appropriate phase of this proceeding.

VII. HEARING AND BRIEFING SCHEDULE

The OSBA will continue to cooperate with other parties to develop a mutually acceptable procedural schedule.

Respectfully submitted,

/s/ Erin K. Fure

Erin K. Fure
Assistant Small Business Advocate
Attorney ID # 312245

Office of Small Business Advocate
555 Walnut Street, 1st Floor
Harrisburg, PA 17101
(717) 783-2525
(717) 783-2831 (fax)

Dated: May 1, 2020

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PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Petition Of PECO Energy Company For :
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For The Period From June 1, 2020 : Docket No. P-2020-3019290
Through May 31, 2025 :**

CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing have been served via email (*unless otherwise noted below*) upon the following persons, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

The Honorable Eranda Vero
Administrative Law Judge
Pennsylvania Public Utility Commission
400 North Street
Commonwealth Keystone Building
Harrisburg, PA 17120
evero@pa.gov

Kenneth M. Kulak, Esq.
Anthony C. DeCusatis, Esq.
Catherin G. Vasudevan, Esq.
Brooke E. McGlinn, Esq.
Morgan, Lewis and Bockius LLP
1701 Market Street
Philadelphia, PA 19103
ken.kulak@morganlewis.com
anthony.decusatis@morganlewis.com
catherine.vasudevan@morganlewis.com
brooke.mcglinn@morganlewis.com

W. Craig Williams, Esq.
Exelon Business Services Company
2301 Market Street, S23-1
P.O. Box 8699
Philadelphia, PA 19101-8699
Craig.Williams@exeloncorp.com

Aron J. Beatty, Esq.
David T. Evrard, Esq.
Office of Consumer Advocate
555 Walnut Street
Forum Place, 5th Floor
Harrisburg, PA 17101
abeatty@paoca.org
devrard@paoca.org

Richard Kanaskie, Esq.
Bureau of Investigation and Enforcement
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
P.O. Box 3265
Harrisburg, PA 17105-3265
rkanaskie@pa.gov

Deanne M. O'Dell, Esq.
Eckert Seamans Cherin & Mellott, LLC
213 Market Street, 8th Floor
Harrisburg, PA 17101
dodell@eckertseamans.com

Elizabeth R. Marx, Esq.
PA Utility Law Project
118 Locust Street
Harrisburg, PA 17101
pulp@palegalaid.net

Christopher O'Hara, Esq.
Vice President, General Counsel,
Law & Chief Compliance Officer
PJM Interconnection
2750 Monroe Boulevard
Audubon, PA 19403-2497
christopher.ohara@pjm.com

Charis Mincavage, Esq
Adeolu A. Bakare, Esq
Jo-Anne S. Thompson, Esq
McNees Wallace & Nurick LLC
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108-1166
cmincavage@mcneeslaw.com
abakare@mcneeslaw.com
jthompson@mcneeslaw.com

Josie B.H. Pickens, Esquire
Robert W. Ballenger, Esquire
Community Legal Services. Inc.
North Philadelphia Law Center
1410 West Erie Avenue
Philadelphia, PA 19102
Jpickens@clsphila.org
rballenger@clsphila.org

Anthony Gay, Esq.
General Counsel for Exelon
2301 Market Street
Legal Department S 23-1
Philadelphia, PA 19103
Anthony.gay@exeloncorp.com

Jack Garfinkle, Esq
PECO Energy Company
2301 Market Street
Legal Department S 23-1
Jack.garfinkle@exeloncorp.com

John F. Lushis, Jr.
Norris McLaughlin, P.A.
515 Hamilton Street, Suite 502
Allentown, PA 18101
jlushis@norris-law.com

/s/ Erin K. Fure

Erin K. Fure
Assistant Small Business Advocate
Attorney ID No. 312245

DATE: May 1, 2020