



Phillips Lytle LLP

VIA ELECTRONIC FILING

May 4, 2020

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
Harrisburg, PA 17120

**Re: Docket P-2020-3019290, Petition of PECO Energy Company for Approval of its
Default Service Program for the Period from June 1, 2021 through May 31, 2025**

Dear Secretary Chiavetta,

Enclosed please find the Prehearing Memorandum of StateWise Energy Pennsylvania LLC and SFE Energy Pennsylvania, Inc. (collectively, "StateWise") in the above-referenced proceeding. Copies have been provided to Administrative Law Judge Eranda Vero and those indicated on the Certificate of Service.

Respectfully submitted,

Phillips Lytle LLP

By *Gregory L. Peterson*

Gregory L. Peterson

Enclosure

cc: Certificate of Service
Honorable Eranda Vero

ATTORNEYS AT LAW

GREGORY L. PETERSON, PARTNER DIRECT 716 483 5172 GPETERSON@PHILLIPSLYTLLE.COM

201 WEST THIRD STREET, SUITE 205 JAMESTOWN, NY 14701-4907 PHONE 716 664 3906 FAX 716 664 4230

NEW YORK: ALBANY, BUFFALO, CHAUTAUQUA, GARDEN CITY, NEW YORK, ROCHESTER | WASHINGTON, DC | CANADA: WATERLOO REGION | PHILLIPSLYTLLE.COM

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Petition of PECO Energy Company for Approval
of its Default Service Program for the Period from
June 1, 2021 through May 31, 2025**

Docket No. P-2020-3019290

**PREHEARING MEMORANDUM
OF STATEWISE ENERGY PENNSYLVANIA LLC AND
SFE ENERGY PENNSYLVANIA, INC.**

Pursuant to Administrative Law Judge (“ALJ”) Eranda Vero’s Prehearing Order dated April 21, 2020 in the above-referenced proceeding, StateWise Energy Pennsylvania LLC and SFE Energy Pennsylvania, Inc. (collectively, “StateWise”) respectfully submits this prehearing memorandum (“Prehearing Memorandum”) to facilitate the orderly conduct and disposition of the proceeding.

I. HISTORY OF PROCEEDING

On March 13, 2020, PECO Energy Company (“PECO”) filed a Petition for Approval of its Default Service Plan for the Period from June 1, 2021 through May 31, 2025 (“DSP V Petition”). The DSP V Petition outlines PECO’s proposed procurement, implementation, and contingency plan for providing default service supply to PECO customers who do not take service from an alternative electric generation supplier (“EGS”).

On April 30, 2020, StateWise filed a Petition to Intervene. As described in its Petition to Intervene, StateWise is a licensed EGS serving residential and commercial customers in Pennsylvania. StateWise offers a range of energy-related value-added products and services, including renewable energy and environmental attributes to support its customers' decarbonization objectives. On April 30, 2020, StateWise also filed a Motion for Admission *Pro Hac Vice* for Kevin C. Blake, and Motion for Admission *Pro Hac Vice* for Thomas F. Puchner to assist in representing StateWise and its interests in this proceeding. As of May 4, 2020, StateWise's Petition to Intervene and both Motions for Admission *Pro Hac Vice* await disposition by the ALJ.

II. ANTICIPATED ISSUES

The DSP V Petition includes proposed products, services, and rates which would apply to all retail customers in PECO's service territory, including current and future customers of StateWise. While StateWise continues to evaluate PECO's DSP V Petition, StateWise intends to address the following preliminary list of potential issues:

1. Whether PECO's proposed billing mechanisms, enrollment procedures, programmatic structure, and contract terms related to the CAP Shopping Plan are just and reasonable;
2. Whether PECO's proposed CAP Shopping Plan would impede or interfere with existing EGS customer contracts, terms, and conditions of service;
3. Whether PECO's DSP V, and the CAP Shopping Plan in particular, is consistent with Commission regulations and the Public Utility Code;

4. Whether PECO's proposed CAP Shopping Plan is consistent with the Commission's Proposed Policy Statement Order issued February 28, 2019 in Docket No. M-2018-300658, *Elec. Distribution Company Default Service Plans – Customer Assistance Program Shopping*; and
5. Whether PECO's proposed default service rate design and standard offer program effectively and appropriately promote the development of Pennsylvania's retail energy market for the benefit of customers in PECO's service territory.

StateWise anticipates pursuing the above-referenced issues in this proceeding and reserves, and does not waive, its right to raise further issues as necessary and appropriate during the course of this proceeding and to respond to any and all issues raised by PECO and other parties.

III. PROPOSED WITNESSES

StateWise is currently evaluating whether and to what extent it will sponsor one or more witnesses and testimony in this proceeding. StateWise will provide reasonable notice to inform the parties and ALJ of witnesses that may be selected and the topics on which such witnesses would provide testimony.

IV. DISCOVERY

StateWise intends to participate in this proceeding through submission of discovery, cross-examination, and submission of briefs, exceptions, and replies thereto as necessary and appropriate.

V. SCHEDULE

StateWise is amenable to PECO's proposed procedural schedule as set forth in Section VI of PECO's DSP V Petition. StateWise will cooperate with the ALJ and the parties at the Prehearing Conference to develop and agree upon appropriate schedules, discovery rules, practices, and procedures in accordance with the ALJ's directives and Commission regulations.

VI. SETTLEMENT

StateWise is willing to participate in settlement discussions to appropriately resolve issues in this proceeding.

May 4, 2020

Respectfully submitted,

Phillips Lytle LLP

By *Gregory L. Peterson*

Gregory L. Peterson
PA I.D. No. 23976
201 West Third Street, Suite 205
Jamestown, NY 14701-4907
Phone: (716) 664-3906
Fax: (716) 664-4230
gpeterson@phillipslytle.com
kblake@phillipslytle.com
tpuchner@phillipslytle.com

Attorneys for *StateWise Energy Pennsylvania LLC* and
SFE Energy Pennsylvania, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served upon the following persons, in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

VIA E-MAIL

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

Erin Fure
Office of Small Business Advocate
300 North Second Street, Suite 202
Harrisburg, Pennsylvania 1710
efure@pa.gov

W. Craig Williams, Esquire
Anthony Gay, Esquire
Jack Garfinkle, Esquire
Exelon Business Services Company
2301 Market Street, S23-1
Philadelphia, PA 19101-8699
craig.williams@exeloncorp.com
anthony.gay@exeloncorp.com
jack.garfinkle@exeloncorp.com

Aron J. Beatty, Esq.
David T. Evrard, Esq.
Office of Consumer Advocate
555 Walnut Street
5th floor, Forum Place
Harrisburg, PA 17101-1923
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
emarxpulp@palegalaid.net

Robert W. Ballenger, Esquire
Josie B. H. Pickens, Esquire
Joline R. Price, Esquire
Community Legal Services, Inc.
1424 Chestnut Street
Philadelphia, PA 19102
rballenger@clsphila.org
jpickens@clsphila.org
jprice@clsphila.org

Karen O. Moury, Esquire
Deanne M. O'Dell, Esquire
Eckert Seamans Cherin & Mellott, LLC
213 Market St., 8th Floor
P.O. Box 1248
Harrisburg, PA 17101
717.237.6000
Fax 717.237.6019
kmoury@eckertseamans.com
dodell@eckertseamans.com

Charis Mincavage, Esq.
Adeolu A Bakare, Esq.
Jo-AnneS. Thompson
McNeesWallace & Nurick LLC
100 Pin Street
P.O. Box 1166
Harrisburg, Pennsylvania 17108
cmincavage@mcneeslaw.com
abakare@mcneeslaw.com
jthompson@mcneeslaw.com

James H. Laskey
Calpine Retail Holdings, LLC
NJ Attorney I.D. No. 016311978
Norris McLaughlin, P.A.
400 Crossing Blvd 8th Floor
Bridgewater Township, NJ 08807
jlaskey@norris-law.com

May 4, 2020

Respectfully submitted,

Phillips Lytle LLP

By *Gregory L. Peterson*

Gregory L. Peterson
PA I.D. No. 23976
201 West Third Street, Suite 205
Jamestown, NY 14701-4907
Phone: (716) 664-3906
Fax: (716) 664-4230
gpeterson@phillipslytle.com