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May 12, 2020

VIA ELECTRONIC FILING

Rosemary Chiavetta, Secretary
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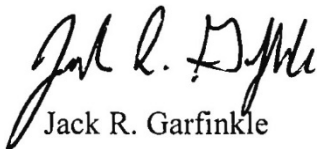
**Re: Petition of the Industrial Energy Consumers of Pennsylvania to Suspend
Implementation of the Act 129 Phase IV Requirements and For Other Relief, Docket No.
P-2020-3019562**

Dear Secretary Chiavetta:

Enclosed for filing in the above-referenced docket, please find **PECO Energy Company's Answer to the Petition of the Industrial Energy Consumers of Pennsylvania**. Copies of the Answer have been served in accordance with the enclosed Certificate of Service.

If you have any questions regarding this filing, please do not hesitate to contact me at 856.912.4738.

Very truly yours,



Jack R. Garfinkle

Enclosure

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PETITION OF THE INDUSTRIAL ENERGY CONSUMERS OF PENNSYLVANIA TO SUSPEND IMPLEMENTATION OF THE ACT 129 PHASE IV REQUIREMENTS AND FOR OTHER RELIEF :
: **Docket No. P-2020-3019562**
:
:
:

CERTIFICATE OF SERVICE

I hereby certify that I have this date served true and correct copies of the **Answer of PECO Energy Company to the Petition of the Industrial Energy Consumers of Pennsylvania** on the following individuals in the matter specified in accordance with the requirements of 52 Pa. Code § 1.54:

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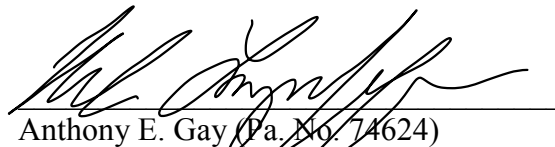
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Dated: May 12, 2020

Counsel for PECO Energy Company

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PETITION OF THE INDUSTRIAL :
ENERGY CONSUMERS OF :
PENNSYLVANIA TO SUSPEND : **Docket No. P-2020-3019562**
IMPLEMENTATION OF THE ACT 129 :
PHASE IV REQUIREMENTS AND FOR :
OTHER RELIEF :

**ANSWER OF PECO ENERGY COMPANY TO THE PETITION OF
THE INDUSTRIAL ENERGY CONSUMERS OF PENNSYLVANIA**

Pursuant to 52 Pa. Code § 5.61, PECO Energy Company (“PECO” or the “Company”) hereby submits this Answer to the Petition filed by The Industrial Energy Consumers of Pennsylvania (“IECPA”) in the above-captioned docket.

I. INTRODUCTION AND OVERVIEW

Act 129, enacted in 2008, required certain Pennsylvania electric distribution companies (“EDCs”) to file energy efficiency and conservation (“EE&C”) plans with the Pennsylvania Public Utility Commission (the “Commission”) by July 1, 2009, to reduce retail energy consumption and peak demand in accordance with specifications set forth in the Pennsylvania Public Utility Code (the “Code”).¹ Act 129 further required the Commission to evaluate the costs and benefits of the EE&C program and EDC plans on November 30, 2013 and every five years thereafter. If the Commission found that the benefits of the EE&C program outweighed its

¹ See 66 Pa. C.S. §§ 2806.1(b)-(d).

costs, Act 129 directed the Commission to adopt additional incremental reductions in consumption and peak demand.²

The Commission subsequently adopted “Phase II” targets for reducing energy consumption and, more recently, on June 19, 2015, issued an implementation order to further reduce energy consumption and peak demand for “Phase III” pursuant to Act 129.³ The EDCs are currently in Phase III, which ends on May 31, 2021. The Commission and the EDCs are also in the midst of a proceeding to initiate “Phase IV.” On March 12, 2020, the Commission issued a Tentative Implementation Order proposing additional incremental reductions in electric consumption and peak demand for Phase IV.⁴

The reductions in consumption and peak demand proposed in the Tentative Implementation Order are predicated on the findings of the Act 129 Statewide Evaluator’s (“SWE’s”) Energy Efficiency and Peak Demand Reduction Market Potential Study Report and Demand Response Potential Study. These studies set forth the reductions in consumption and peak demand that the SWE determined would be reasonably achievable during Phase IV based on extrapolating 2018 data concerning electricity usage and electrical equipment in Pennsylvania.⁵

On March 6, 2020, Governor Tom Wolf issued a Proclamation of Disaster Emergency as a result of a novel coronavirus now known as COVID-19.⁶ On March 19, 2020, in an attempt to slow the spread of COVID-19 in the Commonwealth of Pennsylvania, Governor Wolf ordered

² See 66 Pa. C.S. §§ 2806.1(c)(3), 2806.1(d)(2).

³ See Implementation Order at Docket No. M-2014-2424864 (the “Phase III Implementation Order”).

⁴ Tentative Implementation Order, Docket No. M-2020-3015228 (the “Tentative Implementation Order”).

⁵ See *id.* at 9-14 & 26-37.

⁶ Proclamation of Disaster Emergency, <https://www.governor.pa.gov/wp-content/uploads/2020/03/20200306-COVID19-Digital-Proclamation.pdf>.

all non-life sustaining businesses in the Commonwealth to close their physical locations.⁷ On April 1, 2020, Governor Wolf issued a statewide “stay-at-home” order.⁸ These actions, collectively, have had the effect of modifying energy consumption behavior across the state for both residential and commercial and industrial (“C&I”) customers.

However, these orders are temporary. Certain counties are beginning to reemerge from the closure and stay-at-home orders. On May 7, 2020, Governor Wolf issued an Order suspending the closure and stay-at-home orders, in part, for Bradford, Cameron, Centre, Clarion, Clearfield, Clinton, Crawford, Elk, Erie, Forest, Jefferson, Lawrence, Lycoming, McKean, Mercer, Montour, Northumberland, Potter, Snyder, Sullivan, Tioga, Union, Venango, and Warren counties.⁹ The closure order remains in effect for the remainder of the Commonwealth until further notice, and the stay-at-home order remains in effect for the remainder of the Commonwealth through June 4, 2020.

IECPA filed its Petition on April 22, 2020. IECPA is seeking, due to the impact of COVID-19 on the Commonwealth’s economy and the attendant impact on energy usage by C&I and residential customers, that the Commission: (i) suspend or delay implementation of the Phase IV EE&C requirements for 270 days; (ii) extend Phase III for a period equivalent to the delay of Phase IV; (iii) mandate a reduction in EE&C surcharges by at least 50% for the duration of the Phase III programs; (iv) require that any current or planned energy efficiency or peak

⁷ Order of the Governor of the Commonwealth of Pennsylvania Regarding the Closure of All Businesses That Are Not Life Sustaining, <https://www.scribd.com/document/452416027/20200319-TWW-COVID-19-Business-Closure-Order>.

⁸ Order of the Governor of the Commonwealth of Pennsylvania For Individuals to Stay at Home, <https://www.governor.pa.gov/wp-content/uploads/2020/04/20200401-GOV-Statewide-Stay-at-Home-Order.pdf>.

⁹ Order of the Governor of the Commonwealth of Pennsylvania for Limited Opening of Businesses, Lifting of Stay at Home Requirements, and Continued Aggressive Mitigation Efforts, <https://www.governor.pa.gov/wp-content/uploads/2020/05/20200507-TWW-Yellow-Phase-Order.pdf>. *See also* Amendment to Order of the Governor of the Commonwealth of Pennsylvania For Individuals to Stay At Home, <https://www.governor.pa.gov/wp-content/uploads/2020/05/20200507-TWW-Stay-at-Home-Order-Amendment.pdf>.

demand reduction projects intended for the benefit of customers continue or start as soon as feasibly possible; and (v) suspend or waive all penalties for the duration of the Phase III programs.

The Office of Consumer Advocate (“OCA”) filed an Answer to the Petition on May 5, 2020.¹⁰ The OCA stated that it supported delaying implementation of Phase IV and extending Phase III, but did not agree that the Commission should reduce EE&C surcharges for the duration of Phase III or that the Commission should suspend or waive penalties for the duration of Phase III.¹¹ The Pennsylvania Energy Consumer Alliance, Met-Ed Industrial Users Group, Penelec Industrial Customer Alliance, Philadelphia Area Industrial Energy Users Group, PP&L Industrial Customer Alliance, and West Penn Power Industrial Intervenors (collectively, the “Industrial Customers”) filed an Answer in support of IECPA’s petition on May 5, 2020.¹²

II. EXTENDING PHASE III AND SUSPENDING IMPLEMENTATION OF PHASE IV WILL CREATE UNNECESSARY UNCERTAINTY AND COMPLEXITY FOR BOTH PHASES

COVID-19 has had a significant impact on the Commonwealth’s economy over the past two months. The health risks created by the COVID-19 pandemic, the need for certain businesses to close or operate remotely and for the Commonwealth’s citizens to stay at home, and the decline in the national economy have led to a slow-down in economic activity and a shift in energy usage amongst both C&I and residential customers in Pennsylvania. However, the scope, duration, and full extent of these effects is unclear.¹³ In light of that uncertainty, the

¹⁰ Answer of the Office of Consumer Advocate to the Petition of the Industrial Energy Consumers of Pennsylvania, Docket No. P-2020-3019562.

¹¹ *Id.* at 2-3.

¹² Answer of The Pennsylvania Energy Consumer Alliance, Met-Ed Industrial Users Group, Penelec Industrial Customer Alliance, Philadelphia Area Industrial Energy Users Group, PP&L Industrial Customer Alliance, and West Penn Power Industrial Intervenors, Docket No. P-2020-3019562.

¹³ IECPA acknowledges that the actual economic impact is currently not fully known. *See* Petition at 3.

Company does not support suspension of the implementation of Phase IV or the other relief sought by IECPA in their Petition.

A significant amount of planning goes into designing and implementing an EDC's EE&C plan. From a financial standpoint, the EDCs need to develop budgets, spending plans, and track progress as the plans move forward. From an operational standpoint, the EDCs must first design plans to achieve the consumption and peak demand reduction targets set by the Commission, contract with conservation service providers ("CSPs") to market and implement the EDC's Act 129 programs, and track progress throughout the phase.

The EDCs are approximately one year from the end of Phase III and the beginning of Phase IV. As noted by the OCA, many EDCs are well on their way to achieving their Phase III targets, and with a year still remaining, the targets may still be achievable.¹⁴ Moreover, continuing the Phase III energy efficiency and demand response programs "could be more beneficial to customers in both the short term and the long term. Energy efficiency and demand response measures may help customers reduce their overall energy usage, and thereby their energy bills as they struggle to find ways to contain costs in these difficult times. In addition, being able to maintain funding may promote all programs to ramp up more quickly when circumstances permit."¹⁵

IECPA's request to immediately reduce EE&C surcharges by at least 50% for the duration of Phase III programs is not prudent. PECO agrees with the OCA that the 50% reduction proposed by IECPA "does not have a sound foundation" and may disrupt programs that are nearing completion and deprive customers of the associated benefits.¹⁶ As IECPA

¹⁴ OCA Answer at 3.

¹⁵ *Id.*

¹⁶ *Id.*

acknowledged, “it may be difficult or more costly to EDCs and their customers to later re-institute programs and measures that have been on hiatus for an extended period of time.”¹⁷ Reducing funding by upwards of 50% will likely have a chilling effect on Act 129 EE&C programming as EDCs would be required to modify or eliminate ongoing programs. To avoid this unnecessary disruption, the Commission should maintain current EDC Act 129 surcharges. Even if EDCs ultimately end up spending less than their Phase III budgets due to COVID-19, customers will not be at any financial risk since the EDCs perform a reconciliation to account for any over- or under-recoveries.

Furthermore, if the Commission were to extend Phase III and delay implementation of Phase IV, the EDCs and the Commission would need to consider, among other things, whether and how to modify the Phase III and Phase IV targets and spending limitations, when to initiate new market potential studies, and how to extend Phase III CSP contracts and delay the approval of EDC Phase IV CSP procedures and contract bidding processes for later implementation.

While COVID-19 has certainly had a significant impact on the Commonwealth, portions of the Commonwealth are now beginning a phased reopening and the residents in several counties are no longer subject to stay-at-home orders. Public officials have indicated it is possible that, if a decline in COVID-19 continues throughout Pennsylvania in May, the rest of the Commonwealth may begin reopening by June 2020.¹⁸ As Phase III ends and Phase IV begins over a year from now, it is possible that the Commonwealth will have begun to behave, from an energy perspective, as it did before COVID-19.

¹⁷ Petition at 10.

¹⁸ See Process to Reopen Pennsylvania, <https://www.governor.pa.gov/process-to-reopen-pennsylvania/>.

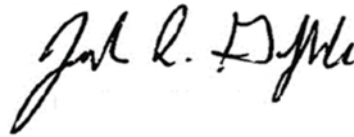
The most prudent way forward is for the EDCs to continue to advance their Phase III targets to the extent reasonably possible and attempt to progress towards Phase IV as scheduled. If it becomes apparent that circumstances will prevent the EDCs from meeting the Commission-approved consumption and peak demand reduction targets due to the long-term impacts of COVID-19, the parties may seek a revision of the targets (as EAP has done in Phase III)¹⁹ at a later time.

¹⁹ See Petition of the Energy Association of Pennsylvania (“EAP”) to Amend the Commission’s June 19, 2015 Implementation Order, Docket No. M-2014-2424864. The Company supports EAP’s May 1, 2020 Petition, in which EAP proposed revising the Phase III Implementation Order to measure compliance for peak demand reduction targets based on performance during Phase III Program Years two through four, and make demand reduction voluntary in Program Year five. On May 8, 2020, the OCA filed an Answer concurring with EAP’s request. See Answer of the Office of Consumer Advocate to the Petition of the Energy Association of Pennsylvania, Docket No. M-2014-2424864 (filed May 8, 2020).

III. CONCLUSION

WHEREFORE, for the foregoing reasons, PECO Energy Company opposes the Petition of IECPA to suspend implementation of the Act 129 Phase IV requirements and for other relief, and requests that the Commission deny the Petition.

Respectfully submitted,



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