



June 29, 2020

**VIA E-File**

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

Re: Petition of PECO Energy Company for Approval of a Default Service Program for the  
Period of June 1, 2021 through May 31, 2025, Docket No. P-2020-3019290  
**Joint Answer of CAUSE-PA and TURN et al.**

Dear Secretary Chiavetta,

Please find the attached **Joint Answer of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA), Tenant Union Representative Network and Action Alliance of Senior Citizens of Greater Philadelphia (together, TURN *et al.*) in Support of the Motion of PECO Energy Company to Dismiss Objections and Compel Answers to PECO Energy Company's Set I Interrogatories Directed to the Electric Supplier Coalition.**

Pursuant to the Commission's Emergency Order issued on March 20, 2020, and as indicated on the attached Certificate of Service, service on the parties was accomplished by email only.

Respectfully Submitted,

A handwritten signature in blue ink that reads "Elizabeth R. Marx".

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Elizabeth R. Marx, Esq.  
*Counsel for CAUSE-PA*

CC: Certificate of Service

**BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of PECO Energy Company for :  
Approval of a Default Service Program for the : Docket No. P-2020-3019290  
Period of June 1, 2021 through May 31, 2025 :

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**JOINT ANSWER OF THE COALITION FOR AFFORDABLE UTILITY SERVICES AND ENERGY EFFICIENCY IN PENNSYLVANIA (CAUSE-PA), TENANT UNION REPRESENTATIVE NETWORK AND ACTION ALLIANCE OF SENIOR CITIZENS OF GREATER PHILADELPHIA (TURN *ET AL.*) IN SUPPORT OF THE MOTION OF PECO ENERGY COMPANY TO DISMISS OBJECTIONS AND COMPEL ANSWERS TO PECO ENERGY COMPANY’S SET I INTERROGATORIES DIRECTED TO THE ELECTRIC SUPPLIER COALITION**

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Pursuant to the provisions of the Rules of Practice and Procedure of the Pennsylvania Public Utility Commission (PUC or Commission), 52 Pa. Code §§ 5.61-5.63, the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA), through its counsel at the Pennsylvania Utility Law Project, together with Tenant Union Representative Network and Action Alliance of Senior Citizens of Greater Philadelphia (TURN *et al.*), through their counsel at Community Legal Services, Inc., hereby file this Joint Answer in Support of the Motion of PECO Energy Company to Dismiss Objections and Compel Answers to PECO Energy Company’s Set I Interrogatories Directed to the Electric Supplier Coalition (Motion). CAUSE-PA and TURN *et al.* are referred to collectively herein as the Low Income Advocates.

As explained below, the Low Income Advocates urge the Honorable Eranda Vero, Administrative Law Judge, to grant PECO’s Motion, overrule the Objections of the Electric

Supplier Coalition (ESC), and compel ESC and its members to provide full and complete answers to PECO's Set I Interrogatories, numbers 2, 4, 5, and 6 no later than 5:00 pm on Monday, July 6.

In support thereof, the Low Income Advocates assert the following:

1. Low Income Advocates agree with and incorporate by reference paragraphs 1-3 of PECO's Motion, which set forth applicable case law and regulations governing discovery. In short, the scope of discovery is broad, and the Commission applies a liberal standard in determining whether an issue is relevant.
2. As relevant to ESC's Objections and this Answer, PECO's DSP V Petition seeks approval for two competitive market program proposals: (1) to continue its current Standard Offer Program (SOP) without modification, and (2) to permit customers enrolled in the Customer Assistance Program (CAP), a universal service program which provides critical rate relief to ensure access to affordable utility services, to shop for energy from Electric Generation Suppliers (EGSs).
3. On June 16, 2020, CAUSE-PA served written direct testimony, highlighting serious and pervasive issues within the competitive market, and the critical need for enhanced consumer protections. (CAUSE-PA St. 1, at 10-19) Specifically, and based on this substantial evidence of inflated costs and abusive marketing in the residential competitive market – as well as the continued failure of suppliers to adhere to CAP shopping rules in other Pennsylvania service territories, CAUSE-PA's expert witness, Harry Geller, recommended that the Commission adopt a number of critical revisions to PECO's SOP and reject PECO's CAP shopping proposal in its entirety. (See CAUSE-PA St. 1, at 55-59).

4. On June 16, 2020, TURN *et al.* served written direct testimony of its expert witness, Philip A. Bertocci, concerning PECO's proposal to permit CAP shopping and modifications PECO proposed to its CAP. In pertinent part, Mr. Bertocci urged monitoring and enforcement if CAP customers are permitted to shop with EGSs, based on the higher prices paid by PECO residential customers for EGS service and because EGSs have persisted in marketing to PECO CAP customers even though CAP customers are ineligible to shop for EGS service. Mr. Bertocci also offered a preliminary analysis supporting a need to evaluate the potential disproportionate impact EGS pricing may have in low-income communities of color. (See TURN *et al.* St. 1.)
5. On June 16, 2020, ESC served direct testimony, in which ESC's expert Travis Kavulla advocated to upend default service, eliminating PECO's role as default service provider (ESC St. 1 at 10). Mr. Kavulla also testified in favor of adding costs to default service (ESC St. 1 at 41), changing the residential billing paradigm (ESC St. 1 at 20), expanding and modifying PECO's Standard Offer Program (SOP) (ESC St. 1 at 53-58), and allowing EGSs to charge economically vulnerable consumers in PECO's statutorily mandated Customer Assistance Program prices in excess of PECO's PTC (ESC St. 1 at 60). Mr. Kavulla claims that these structural changes to default service are necessary because the market is stagnant and suppliers are constrained in their ability to compete due to PECO's continued role as default service provider. (ESC St. 1 at 6-10).
6. The information being sought by PECO in its Set I Interrogatories to ESC is not only relevant, it is an essential component of this case. The information sought goes to Mr. Kavulla's claims of market stagnation and seek to reveal whether such stagnation, if it exists, should be attributed to PECO or to other causes such as unfavorable EGS pricing

and/or marketing tactics. As witnesses for the Low-Income Advocates have testified, data from PECO indicates that residential shopping customers have consistently paid millions of dollars more for competitive electric service than they would have paid if they remained on default service. (CAUSE-PA St. 1 at 10-19; TURN et al. St. 1 at 8-9). The data requested by PECO will help the Low Income Advocates assess ESC's members' pricing, assisting the parties in evaluating the justness and reasonableness of ESC's proposals themselves.

7. The information sought by PECO in its Set I Interrogatories to ESC is also squarely relevant to whether PECO's SOP and CAP Shopping proposals are in the public interest and should be approved. This question turns at least in part on the relative health of the competitive market – and whether it is necessary, just, and reasonable for the Commission to continue to sanction the use of ratepayer dollars for an EDC to support these programs. Indeed, all aspects of the competitive market, including the rates charged by participating suppliers and suppliers' relative market share, are relevant to determining whether it is just and reasonable – and consistent with applicable statutes, regulation, and policy – to use ratepayer dollars to further support retail market enhancement programs.
8. ESC's claims of privilege and confidentiality are also completely without merit in this proceeding, as there is an active Protective Order in place that removes any concern of unwarranted disclosure. Indeed, PECO's Protective Order was vetted with all parties prior to submission to the Commission, and counsel for ESC did not raise any concerns with the parties at that time about the strength or scope of the protective order – nor did it suggest any additional provisions to further protect the disclosure of potentially sensitive information. Indeed, on May 21, 2020, ESC circulated executed copies of the

nondisclosure agreement to secure access to confidential information, indicating its desire to be bound by that Protective Order.

9. The Low Income Advocates have an interest in reviewing ESC's response to PECO's Set I Interrogatories in preparation for rebuttal testimony in response to ESC's proposals to modify default service in PECO's service territory.

WHEREFORE, the Low Income Advocates respectfully requests that the Honorable Eranda Vero, Administrative Law Judge, issue an Order granting PECO's Motion, overruling the objections of ESC and its members, and compelling ESC to answer PECO's Set I Interrogatories Nos. 2, 4, 5, and 6 no later than 5:00 pm on Monday, July 6, 2020. Further delay will substantially prejudice the ability of the non-ESC parties, including the Low Income Advocates, to adequately respond through rebuttal to the proposals ESC makes in its direct testimony to transform the provision of default service in PECO's service territory.

Respectfully submitted,

**PENNSYLVANIA UTILITY LAW PROJECT**  
*Counsel for CAUSE-PA*



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June 29, 2020

**Verification**

I, Elizabeth R. Marx, on behalf of and as counsel for the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA), hereby state that the facts contained in the foregoing Joint Answer of the Low Income Advocates are true and correct to the best of my knowledge, information and belief, that I am duly authorized to make this Verification, and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 10 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

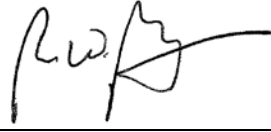
A handwritten signature in blue ink that reads "Elizabeth R. Marx". The signature is fluid and cursive, with a horizontal line drawn underneath it.

Elizabeth R. Marx, Esq.  
*Counsel for CAUSE-PA*

Date: June 29, 2020

**Verification**

I, Robert W. Ballenger, on behalf of and as counsel for Tenant Union Representative Network and Action Alliance of Senior Citizens of Greater Philadelphia (TURN *et al.*), hereby state that the facts contained in the foregoing Joint Answer of the Low Income Advocates are true and correct to the best of my knowledge, information and belief, that I am duly authorized to make this Verification, and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 10 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

A handwritten signature in black ink, appearing to read 'RWB', is written above a solid horizontal line.

Robert W. Ballenger, Esq.  
*Counsel for TURN et al.*

Date: June 29, 2020



**BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of PECO Energy Company for :  
 Approval of a Default Service Program for the : Docket No. P-2020-3019290  
 Period of June 1, 2021 through May 31, 2025 :

**CERTIFICATE OF SERVICE**

I hereby certify I have on this day served copies of **Joint Answer of CAUSE-PA and TURN *et al.* in Support of the Motion of PECO Energy Company to Dismiss Objections and Compel Answers to PECO Energy Company’s Set I Interrogatories Directed to the Electric Supplier Coalition** in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party) and consistent with the Commission’s March 20 Emergency Order at Docket M-2020-3019262.

**VIA EMAIL**

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