

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>Petition of PECO Energy Company for</b>	:	
<b>Approval of Its Default Service Program for</b>	:	<b>P-2020-3019290</b>
<b>the Period From June 1, 2021 Through</b>	:	
<b>May 31, 2025</b>	:	

**SURREBUTTAL TESTIMONY OF  
PHILIP A. BERTOCCI**

**On Behalf of  
Tenant Union Representative Network  
and  
Action Alliance of Senior Citizens of Greater Philadelphia**

**July 23, 2020**

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1     **I.    INTRODUCTION**

2     **Q.    Have you testified previously in this proceeding?**

3     A.    Yes, I provided testimony on June 16, 2020 on behalf of Tenant Union Representative  
4     Network and Action Alliance of Senior Citizens of Greater Philadelphia (“TURN *et al*”). In that  
5     testimony I described my background and set forth my concerns regarding PECO’s proposed CAP  
6     Shopping Plan and proposed modifications to CAP. I also provided rebuttal testimony on July 9,  
7     2020 on behalf of TURN *et al.* to the testimony of Mr. Travis Kavulla on behalf of the Electric  
8     Supplier Coalition (“ESC”) and also provided comments on the testimony of Mr. Harry Geller on  
9     behalf of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania  
10    (“CAUSE-PA”).

11    **Q.    What is the purpose of your testimony?**

12    A.    The purpose of my testimony is to respond to the Rebuttal Testimony of Ms. Carol Reilly  
13    on behalf of PECO Energy Company (PECO). PECO St. 3-R.

14    **II.   PECO’S CAP SHOPPING PLAN**

15    **Q.    Please briefly describe Ms. Reilly’s rebuttal to your testimony.**

16    A.    Ms. Reilly disagrees with my testimony, in which I assert that PECO should not  
17    implement a CAP shopping plan unless and until PECO establishes processes to monitor and  
18    enforce EGS compliance with pricing limitations that prohibit EGS’s from charging in excess of  
19    PECO’s Price-to-Compare (PTC). PECO St. 3-R at 6-8. Ms. Reilly provides two bases for her  
20    disagreement: First, she asserts that there is no reason “to put PECO into the business of  
21    obtaining EGS prices” because “the Commission has extensive authority over EGSs and a

1 variety of mechanisms to investigate and address any allegations that EGSs are over-charging  
2 low-income customers;” Second, she asserts that PECO can’t readily determine the EGS charges  
3 in cents per kWh for each billing period because “the monthly charges could include amounts  
4 unrelated to the generation service provided in that billing period, such as prior-period billing  
5 adjustments.” PECO St. 3-R at 6-7.

6 **Q. Please respond to Ms. Reilly’s assertion that there is no reason to “put PECO into**  
7 **the business of obtaining EGS prices.”**

8 A. There is one circumstance in which Ms. Reilly’s statement is correct. That circumstance  
9 is the status quo, in which PECO CAP customers are not permitted to shop. Otherwise, the  
10 Commission’s guidance is clear that the establishment of a CAP shopping plan that protects CAP  
11 customers from prices in excess of the PTC is, in fact, an obligation imposed on PECO as the  
12 default service provider. The Commission’s proposed CAP Shopping Policy Statement  
13 explicitly provides “guidelines to EDCs”<sup>1</sup> thus making it clear that it is PECO’s business to  
14 ensure that the Commission’s core objectives are met – namely, that CAP customers and all non-  
15 CAP customers who contribute to the cost of CAP do not suffer harm due to CAP customers  
16 incurring charges in excess of the PTC. Indeed the Commission’s CAP Shopping Policy  
17 Statement Order imposes a further obligation on PECO, by specifying that a CAP customer  
18 selecting an EGS product that does not meet the Commission’s guidelines “shall be removed  
19 from CAP.”<sup>2</sup> Thus, the Commission’s order places PECO, as the administrator of CAP, in the  
20 business of monitoring EGS products, to ensure that CAP customers are not charged in excess of  
21 the PTC. If the only means for PECO to ensure that CAP customers do not incur charges in

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<sup>1</sup> Proposed 52 Pa. Code §69.271 (Scope).

<sup>2</sup> *Electric Distribution Company Default Service Plans – Customer Assistance Program Shopping*, Docket No. M2018-3006578, Order entered February 28, 2019 (“Proposed Policy Statement Order”) at 6.

1 excess of the PTC is by monitoring the EGS prices actually charged to every CAP shopping  
2 customer, then PECO must do so if it is to implement a CAP shopping plan. As I have testified,  
3 if PECO is unable or unwilling to monitor EGS pricing in order to enforce this crucial price  
4 restriction, PECO's proposed CAP shopping plan should not be approved.<sup>3</sup>

5 **Q. Please respond to Ms. Reilly's assertion regarding the ability of the Commission to**  
6 **address EGS overcharging.**

7 A. While I do not disagree with Ms. Reilly regarding the Commission's ability to investigate  
8 and address an EGS overcharging a customer, I believe Ms. Reilly disregards the implications  
9 associated with reliance upon the Commission's informal and formal complaint process to  
10 resolve individual complaints of EGS overcharging of CAP customers. While the Commission  
11 could, if it became aware of EGS overcharging, take certain remedial action, Ms. Reilly  
12 disregards the context in which that action would likely occur. Primarily, without any  
13 monitoring in place, a CAP customer facing unaffordable PECO bills due to EGS overcharging  
14 is unlikely to learn of the EGS's fault in such circumstance until the customer faces collection  
15 action. By that point, it is not simply a matter of remedying the EGS overcharging vis-à-vis the  
16 CAP customer, but also determining and rectifying the effect of that overcharging on all  
17 customers who contribute to the cost of CAP. Thus, to the extent that a billing adjustment for the  
18 CAP customer is required, such adjustment necessarily implicates PECO in its operation of CAP  
19 and its recovery of CAP credits via its universal service fund charge. Furthermore, as I stated in  
20 my testimony, the CAP customer is going to be in the position of seeking relief not from the  
21 EGS, but from PECO to whom it owes the accumulated balance due to EGS overcharging. See

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<sup>3</sup> I note that, as set forth in my rebuttal testimony, the seeming unwillingness of EDCs to even make nonbinding commitments to participate in PECO's proposed CAP shopping plan, together with the high cost of implementation constitutes a further, independent reason to reject PECO's proposed CAP shopping plan. TURN *et al.* St. 1-R at 7.

1 TURN *et al.* St. 1 at 6. Finally, in the event a CAP customer is actually terminated due to  
2 inability to afford excessive EGS charges, the CAP customer would nonetheless be subject to  
3 PECO reconnection fees; I have no reason to believe the Commission could require EGSs to  
4 reimburse CAP customers for those fees.

5 In my view, it is fundamentally unfair to CAP customers to place them in the position of  
6 having to enforce EGS compliance with PECO's CAP shopping plan. As I stated previously,  
7 doing so creates unnecessary burden on the Commission's administrative complaint process.  
8 TURN *et al.* St. 1 at 7. It also appears to create unnecessary burden and complexity for PECO in  
9 its administration of CAP.

10 **Q. Please respond to Ms. Reilly's contention that PECO cannot readily determine EGS**  
11 **charges in cents per kWh.**

12 A. Ms. Reilly explains that EGS charges may not be readily convertible into cents per kWh  
13 by dividing the total EGS charges by the kWh in usage in a billing period. She claims that this is  
14 so because charges could include a prior-period billing adjustment. PECO St. 3-R at 7. She  
15 further explains that EGSs can, but are not required to, provide a description of how EGS  
16 charges are calculated in a text-comment field in PECO's current Electronic Data Interchange  
17 (EDI) 810 protocol, but that even if such information were provided, PECO would have to  
18 develop an IT solution to review such information, or review it manually. PECO St. 3-R at 7.

19 Ms. Reilly provides no indication of how frequently CAP customers would experience  
20 EGS charges that contain amounts unrelated to generation service provided in that billing period  
21 (e.g., a prior-period billing adjustment). Likewise, she provides no indication of how frequently  
22 such prior-period billing adjustments (together with previously billed charges) would satisfy or  
23 violate PECO's proposed pricing limitations. If PECO is not able to develop a programmatic

1 solution to ensure that EGS charges for the billing period, as well as any prior-period billing  
2 adjustments, satisfy the EGS pricing limitations in its proposed CAP shopping plan, then rate-  
3 ready billing, as proposed by Mr. Geller,<sup>4</sup> is an apt solution.

4 **Q. Do you agree with Ms. Reilly’s assertion that using EGS pricing in the FCO**  
5 **calculation is necessary to deliver the savings incurred by a shopping CAP customer?**

6 A. No, Ms. Reilly is incorrect. Ms. Reilly states that “use of EGS pricing in the FCO  
7 calculation is necessary to pass on any generation purchase savings to the shopping CAP  
8 customer. Conversely, use of the PTC would strip the generation shopping decision out of the  
9 FCO calculation and consequently would mean that the shopping CAP customer would not enjoy  
10 the savings from the shopping transaction.” PECO St. 3-R at 11. This statement contradicts Ms.  
11 Reilly’s Direct Testimony, in which Ms. Reilly correctly recognizes that use of EGS charges  
12 below the PTC in the FCO calculation reduces the fixed credit amount received by the CAP  
13 customer. PECO St. 3 at 12. By reducing the fixed credit amount after the CAP customer has  
14 achieved a savings from an EGS, PECO’s proposal would increase the CAP customer’s bill  
15 effectively negating those savings. However, I note my agreement with Ms. Reilly that if the  
16 Commission approves PECO’s proposal to implement a Percentage of Income Payment Plan  
17 (PIPP), the impact of EGS pricing on the FCO calculation would become moot.

18 **III. CONCLUSION**

19 **Q. Does that conclude your testimony?**

20 A. Yes.

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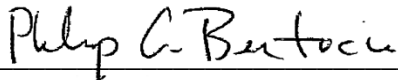
<sup>4</sup> See CAUSE-PA St. 1 at 52. Contrary to Ms. Reilly’s rebuttal testimony (PECO St. 3-R at 5), Mr. Bertocci did not specifically recommend rate-ready billing in his testimony.

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VERIFICATION

I, Philip A. Bertocci, hereby state that the facts set forth above in my Surrebuttal Testimony, TURN et al., Statement No. 1-SR, are true and correct 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 18 Pa. C.S. §4904 (relating to unsworn falsification to authorities).

  
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Philip A. Bertocci  
Of Counsel  
Community Legal Services

DATED: July 29, 2020