

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

555 Walnut Street, 5th Floor, Forum Place
Harrisburg, Pennsylvania 17101-1923
(717) 783-5048
800-684-6560

 @pa_oca

 /pennoca

FAX (717) 783-7152
consumer@paoca.org

January 7, 2021

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 Act 129 Phase IV Energy Efficiency and
Conservation Plan
Docket No. M-2020-3020830

Dear Secretary Chiavetta:

Attached for electronic filing please find the Office of Consumer Advocate's Prehearing Memorandum in the above-referenced proceeding.

Copies have been served per the attached Certificate of Service.

Respectfully submitted,

/s/ Laura J. Antinucci
Laura J. Antinucci
Assistant Consumer Advocate
PA Attorney I.D. # 327217
E-Mail: LAntinucci@paoca.org

Enclosures:

cc: The Honorable Mark A. Hoyer (**email only**)
The Honorable Emily I. DeVoe (**email only**)
Certificate of Service

*302046

CERTIFICATE OF SERVICE

Re: Petition of PECO Energy Company :
for Approval of Act 129 Phase IV Energy : Docket No. M-2020-3020830
Efficiency and Conservation Plan :

I hereby certify that I have this day served a true copy of the following document, the Office of Consumer Advocate's Prehearing Memorandum, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 7th day of January 2021.

SERVICE BY E-MAIL ONLY

Richard A. Kanaskie, Esquire
Bureau of Investigation & Enforcement
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

Steven C. Gray, Esquire
Office of Small Business Advocate
555 Walnut Street
1st Floor, Forum Place
Harrisburg, PA 17101-1923

Anthony Gay, Esquire
Jack R. Garfinkle, Esquire
PECO Energy Company
2301 Market Street
Legal Department S23-1
Philadelphia, PA 19103

Ria M. Pereira, Esquire
John W. Sweet, Esquire
Elizabeth R. Marx, Esquire
PA Utility Law Project
118 Locust Street
Harrisburg, PA 17101

Mark Szybist, Esquire
Natural Resources Defense Council
1152 15th Street NW
Suite 300
Washington, DC 20005

Catherine G. Vasudevan, Esquire
Kenneth M. Kulak, Esquire
Morgan Lewis & Bockius LLP
1701 Market Street
Philadelphia, PA 19103-2921

James M. Van Nostrand, Esquire
Keyes & Fox LLP
275 Orchard Drive
Pittsburgh, PA 15228-2122

/s/ Laura J. Antinucci
Laura J. Antinucci
Assistant Consumer Advocate
PA Attorney I.D. # 327217
E-Mail: LAntinucci@paoca.org

Aron J. Beatty
Senior Assistant Consumer Advocate
PA Attorney I.D. # 86625
E-Mail: ABeatty@paoca.org

Counsel for:
Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923
Phone: (717) 783-5048
Fax: (717) 783-7152
Dated: January 7, 2021
*302041

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Re: Petition of PECO Energy Company :
for Approval of Its Act 129 Phase IV : Docket No. M-2020-3020830
Energy Efficiency and Conservation Plan :

PREHEARING MEMORANDUM
OF THE
OFFICE OF CONSUMER ADVOCATE

Pursuant to Section 333 of the Public Utility Code, 66 Pa. C.S. Section 333, and in response to the Prehearing Conference Order in the above-captioned matter, the Office of Consumer Advocate (OCA) provides the following information:

I. Introduction

On October 15, 2008, Act 129 of 2008 (Act 129 or the Act) was signed into law by Governor Edward G. Rendell. Act 129 made numerous amendments to Chapter 28 of the Public Utility Code and required the seven major electric distribution companies (EDCs) to file energy efficiency and conservation plans (EE&C Plans), which occurred in the summer of 2009. On November 30, 2020, PECO Energy Company (PECO or the Company) filed the Petition of PECO Energy Company for Approval of Its Act 129 Phase IV Energy Efficiency and Conservation Plan (Petition), pursuant to Section 2806.1 of the Public Utility Code and pursuant to the Phase IV Implementation Order entered by the Commission at Docket No. M-2020-3020830 on June 18, 2020.

The five-year cost of the Company's Phase IV Energy Efficiency and Conservation Plan (hereafter, Phase IV Plan) is projected to be \$427.4 million. PECO EE&C Plan at 9. The

Company's programs are designed to produce: (1) 1,605,107 MWh in energy savings, or 116% of PECO's overall energy savings target; and (2) 327 MW of PDR, or 128% of its PDR target. Id. With respect to residential customers, PECO has proposed the following four residential customer energy efficiency programs: (1) The Residential (excluding low-income) Program; (2) The Income-Eligible Program; (3) The Residential Home Energy Reports Program; and (4) Income-Eligible Home Energy Reports Program. PECO EE&C Plan at 10.

On December 11, 2020, the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA) filed its Petition to Intervene and Answer in the matter. On December 21, 2020, the Office of Small Business Advocate (OSBA) filed a Notice of Intervention and Public Statement. The Natural Resources Defense Council (NRDC) filed a Petition to Intervene on December 29, 2020. The OCA filed a Notice of Intervention and Public Statement on December 30, 2020. The filing was assigned to the Office of Administrative Law Judge and further assigned to Deputy Chief Administrative Law Judges Mark A. Hoyer (ALJ Hoyer) and Administrative Law Judge Emily DeVoe (ALJ DeVoe) for investigation. On December 30, 2020, ALJ Hoyer issued a Prehearing Conference Order. A Prehearing Conference in this matter will be held on January 8, 2021.

II. Issues and Sub-issues

Based upon a preliminary analysis of the Company's filing, the OCA has compiled a list of issues and sub-issues that it anticipates will be included in its investigation of the filings. It is anticipated that other issues may arise and may be pursued during the course of these proceedings.

The following list sets forth the issues at this time that the OCA anticipates it will examine:

(1) Whether the proposed energy conservation plan and the individual program design meets the requirements of Section 2806.1 of the Code and the Commission's Phase IV Implementation Order;

(2) Whether the portfolio of programs proposed is reasonably balanced and whether the programs are distributed across rate classes;

(3) Whether the Plan is reasonable and meets the requirements of Section 2806.1 and the Phase IV Implementation Order for low-income customers;

(4) Whether the design of the proposed demand reduction measures included in the Peak Demand Reduction program are reasonable and appropriately meet the requirements of the Phase IV Implementation Order's identified demand reduction targets;

(5) Whether the Company has a reasonable plan to nominate a portion of their peak demand savings into PJM's FCM.

(6) Whether the proposed cost recovery mechanisms, including the proposed budgets, are reasonable;

(7) Whether the proposals to recover costs for its Plan through the Phase IV Energy Efficiency & Conservation Program Charge and the separate recovery charge for each customer class are reasonable;

(8) Whether the proposed program measures, including the cost-effectiveness of the Plan, are reasonable as measured by the Total Resource Cost (TRC) test;

(9) Whether the proposed measurement and verification and evaluation plan is appropriate and reasonable; and

(10) Whether the frequency of the stakeholder meetings is sufficient.

The OCA reserves the right to raise additional issues as may be necessary.

III. Witnesses

The OCA will present the direct, rebuttal and surrebuttal testimony, as may be necessary, of Ms. Stacy Sherwood in this proceeding. In order to expedite the resolution of this proceeding, the OCA requests that copies of all interrogatories, answers to interrogatories, and testimony be mailed to Ms. Sherwood at the following address, as well as mailing copies to counsel for the OCA.

Stacy L. Sherwood
Exeter Associates, Inc.
10480 Little Patuxent Parkway
Suite 300
Columbia, MD 21044
E-Mail: sherwood@exeterassociates.com

The OCA specifically reserves the right to call additional witnesses, as necessary. As soon as the OCA has determined whether an additional witness or witnesses will be necessary for any portion of its case, ALJ Hoyer, ALJ DeVoe, and all parties of record will be notified.

IV. Service on the OCA

The OCA will be represented in this case by Assistant Consumer Advocate Laura J. Antinucci and Senior Assistant Consumer Advocate Aron J. Beatty. Two copies of all documents should be served on the OCA as follows:

Laura J. Antinucci
Assistant Consumer Advocate
Aron J. Beatty
Senior Assistant Consumer Advocate
Office of Consumer Advocate
5th Floor, Forum Place
555 Walnut Street
Harrisburg, Pa. 17101-1923
Telephone: (717) 783-5048
Fax: (717) 783-7152
E-mail: lantinucci@paoca.org
abeatty@paoca.org

V. Discovery

In order to effectively investigate and adequately develop a record on these issues in the limited timeframe for this proceeding, the OCA proposes discovery rule modifications, as set forth below:

1. Answers to written interrogatories shall be served in-hand within five (5) calendar days of service of the interrogatories.

2. Objections to interrogatories shall be communicated orally within two (2) calendar days of service of the interrogatories. Unresolved objections shall be served in writing within three (3) calendar days of service of the interrogatories.

3. Motions to dismiss objections and/or direct the answering of interrogatories shall be filed within three (3) calendar days of service of the written objections.

4. Answers to motions to dismiss objections and/or direct the answering of interrogatories shall be filed within three (3) calendar days of service of such motions.

5. Rulings on such motions shall be issued, if possible, within seven (7) calendar days of the filing of the motions.

6. Requests for admissions will be deemed admitted unless answered within five (5) calendar days or objected to within three (3) calendar days of service of the requests.

7. Any discovery served after 12:00 PM on a Friday will be deemed to have been served on the following business day.

The OCA reiterates that all time periods established in the foregoing discovery schedule should be calculated using calendar days.

VI. Settlement

The OCA will participate in settlement discussions with the Company and other parties.

VII. Schedule

The OCA will work with all parties to develop a mutually agreeable procedural schedule.

Respectfully submitted,

/s/ Laura J. Antinucci

Laura J. Antinucci

Assistant Consumer Advocate

PA Attorney I.D. # 327217

E-Mail: LAntinucci@paoca.org

Aron J. Beatty

Senior Assistant Consumer Advocate

PA Attorney I.D. # 86625

E-Mail: ABeatty@paoca.org

Counsel for:

Tanya J. McCloskey

Acting Consumer Advocate

Office of Consumer Advocate

555 Walnut Street

5th Floor, Forum Place

Harrisburg, PA 17101-1923

Phone: (717) 783-5048

Fax: (717) 783-7152

DATE: January 7, 2021

*301805