*Via electronic service only due to Emergency Order at Docket No. M-2020-3019262*

**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of PECO Energy Company : M-2020-3020830

for Approval of its Act 129 Phase IV Energy :

Efficiency and Conservation Plan :

**ORDER CERTIFYING RECORD TO THE COMMISSION**

HISTORY OF THE PROCEEDING

 On June 18, 2020, the Commission entered an Implementation Order with respect to the Energy Efficiency and Conservation Program at Docket No. M-2020-3015228 (Implementation Order). In the Implementation Order, the Commission adopted a timeline for Phase IV of the Program which called for, *inter alia*, Electric Distribution Companies (EDCs) to file Energy Efficiency and Conservation (EE&C) Phase IV Plans by November 30, 2020, and a Commission ruling on the EE&C Plans in March 2021.

On November 30, 2020, PECO Energy Company (PECO, Company, or Petitioner) filed the above-captioned Petition with the Pennsylvania Public Utility Commission pursuant to Act 129 of 2008 (Act 129), 66 Pa.C.S. §§ 2806.1 and 2806.2 and the Commission’s Implementation Order entered on June 18, 2020 at Docket No. M-2020-3015228 (Implementation Order), seeking approval of its Act 129 Phase IV Energy Efficiency and Conservation Plan (EE&C Plan). Notice of the filing was published in the *Pennsylvania Bulletin* on January 2, 2021, 51 Pa.B. 116 and on January 9, 2021, 51 Pa.B. 252.[[1]](#footnote-1)

On December 11, 2020, the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA) filed a Petition to Intervene and Answer.

On December 21, 2020, the Office of Small Business Advocate (OSBA) filed a Notice of Intervention, Public Statement, and Verification, as well as a Notice of Appearance.

On December 29, 2020, the Natural Resource Defense Council (NRDC) filed a Petition to Intervene.

On December 30, 2020, a Call-In Telephonic Prehearing Conference Notice was served on the parties scheduling a prehearing conference for Friday, January 8, 2021. Also on December 30, 2020, a Prehearing Conference Order was issued.

On December 30, 2020, the Office of Consumer Advocate (OCA) filed a Notice of Intervention and Public Statement.

On January 6, 2021, a Judge Addition Notice was issued adding Administrative Law Judge (ALJ) Emily I. DeVoe as an additional ALJ in this proceeding.

On January 7, 2021, the Philadelphia Area Industrial Energy Users Group (PAIEUG), the Industrial Energy Consumers of Pennsylvania (IECPA), and the Tenant Union Representative Network (TURN) each filed a Petition to Intervene.

A prehearing conference was held on January 8, 2021. PECO, OCA, OSBA, CAUSE-PA, NRDC, PAIEUG, IECPA, and TURN were represented at the conference.

No party objected to the Petitions to Intervene of CAUSE-PA, NRDC, PAIEUG, IECPA, and TURN, and the Petitions were granted during the prehearing conference.

 On January 8, 2021, the undersigned issued a Prehearing Order establishing a litigation schedule which included a hearing date of January 22, 2021.

 On January 8, 2021, CAUSE-PA, NRDC, OCA, OSBA, and TURN (Joint Movants) filed a Joint Expedited Motion for Extension of Procedural Schedule (Motion).[[2]](#footnote-2)

On January 11, 2021, the undersigned issued an Interim Order directing the parties to: 1) file responses, if any, to the Motion by Wednesday, January 13, 2021, and 2) file responses, if any, to the OALJ’s Proposed Revised Schedule detailed in the January 11, 2021 Order by Wednesday, January 13, 2021.

On January 13, 2021, the undesigned issued a Protective Order.

PECO, CAUSE-PA, IECPA, NRDC, OCA, and OSBA timely filed responses to the January 11, 2021 Order.

On January 14, 2021, Chief Administrative Law Judge Charles Rainey (CALJ Rainey) issued an Order Denying the Joint Expedited Motion for Extension of Procedural Schedule. CALJ Rainey’s Order provided that: evidentiary hearings occur on or before February 8, 2021, briefs are to be filed on or before February 18, 2021, reply comments/revised plans are to be filed by March 1, 2021, and the record is to be certified by March 2, 2021.

On January 15, 2021, the undersigned emailed the parties advising that, in light of Chief Rainey’s Order, they were suspending the litigation schedule and cancelling the evidentiary hearing scheduled for January 22, 2021. The email directed the parties to confer regarding a litigation schedule and that the undersigned would meet with the parties at 8:40 a.m. on January 19, 2021 to set a new litigation schedule and hearing date.

A conference was convened on January 19, 2021 at 8:40 a.m.[[3]](#footnote-3) The undersigned heard arguments from the parties regarding their positions on the litigation schedule and hearing date. Ultimately, the undersigned set a revised litigation schedule.

On January 19, 2021, the Commission issued a Notice rescheduling the evidentiary hearing for February 5, 2021 at 10:00 a.m.

On January 22, 2021, comments to the Company’s Phase IV Plan were filed by Daikin U.S. Corporation, Energy Efficiency for All Pennsylvania Coalition, Keystone Energy Efficiency Alliance, and Ceres.

On January 26, 2021, an Interim Order was entered adopting the revised litigation schedule, which included a hearing date of February 5, 2021.

On February 4, 2021, PECO, OCA, OSBA, CAUSE-PA, IECPA, TURN, NRDC, and PAIEUG (Stipulating Parties), filed a Joint Stipulation for Admission of Testimony, Exhibits, and Certain Responses to Discovery (Joint Stipulation). Each of the Stipulating Parties stipulated to the authenticity of the statements and exhibits listed in the Joint Stipulation and requested that they be admitted into the record of this proceeding. The Stipulating parties also indicated they waived cross-examination.

By Notice dated February 4, 2021, the evidentiary hearing was cancelled.

An Interim Order was entered on February 8, 2021, adopting the Joint Stipulation and admitting the testimonies and exhibits listed in the Joint Stipulation into the record.

On February 26, 2021, PECO, OCA, OSBA, CAUSE-PA, and PAIEUG (Settling Parties) filed a Joint Petition for Settlement (Settlement). Attached to the Settlement was Exhibit 1, as well as the Settling Parties’ Statements in Support. PECO’s Statement in Support is attached as Statement A, OCA’s Statement in Support is attached as Statement B, OSBA’s Statement in Support is attached as Statement C, CAUSE-PA’s Statement in Support is attached as Statement D, and PAIEUG’s Statement in Support is attached as Statement E.

In the Settlement, the Settling Parties represent that NRDC, IECPA, and TURN do not oppose the Settlement.

On February 18, 2021, NRDC filed a Letter of Non-Opposition to the Settlement. On February 26, 2021, TURN filed a Letter of Non-Opposition to the Settlement.

On March 1, 2021, IECPA filed a letter advising that it did not oppose the Settlement. Also on March 1, 2021, PAIEUG filed reply comments.

 THEREFORE:

IT IS ORDERED THAT THE FOLLOWING DOCUMENTS COMPRISE THE EVIDENTIARY RECORD IN THIS CASE:

 1. PECO Energy Company’s Phase IV Energy Efficiency and Conservation Plan filed November 30, 2020, at Docket No. M-2020-3020830.

 2. The Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania’s Petition to Intervene filed December 11, 2020.

 3. The Office of Small Business Advocate’s Notice of Intervention, Public Statement, and Verification filed December 21, 2020.

 4. The Natural Resources Defense Council’s Petition to Intervene filed December 29, 2020.

 5. The Call-In Telephonic Prehearing Conference Notice issued December 30, 2020.

 6. The Prehearing Conference Order issued December 30, 2020.

 7. The Office of Consumer Advocate’s Notice of Intervention and Public Statement filed December 30, 2020.

 8. The Judge Addition Notice issued January 6, 2021.

 9. The Petition to Intervene filed by the Philadelphia Area Industrial Energy Users Group on January 7, 2021.

 10. The Petition to Intervene filed by the Industrial Energy Consumers of Pennsylvania on January 7, 2021.

 11. The Petition to Intervene filed by the Tenant Union Representative Network on January 7, 2021.

 12. The transcript of the Prehearing Conference held January 8, 2021, consisting of pages 1-30.

 13. The Prehearing Order issued January 8, 2021 .

 14. Joint Expedited Motion for Extension of Procedural Schedule filed by the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania, Natural Resource Defense Council, Office of Consumer Advocate, Office of Small Business Advocate, and Tenant Union Representative Network on January 8, 2021.

 15. The Interim Order Directing Parties to Respond to Joint Expedited Motion and OALJ’s Proposed Revised Schedule issued January 11, 2021.

 16. The Protective Order entered January 13, 2021.

 17. The Order Denying the Joint Expedited Motion for Extension of Procedural Schedule issued January 14, 2021.

 18. The Call-In Telephonic Evidentiary Hearing Notice issued January 19, 2021.

 19. Daikin U.S. Corporation’s comments on the Phase IV Energy Efficiency and Conservation Program Plan filed on January 22, 2021.

 20. Energy Efficiency for All Pennsylvania Coalition’s comments on the Phase IV Energy Efficiency and Conservation Program Plan filed on January 22, 2021.

 21. Keystone Energy Efficiency Alliance’s comments on the Phase IV Energy Efficiency and Conservation Program Plan filed on January 22, 2021.

 22. Ceres’s comments on the Phase IV Energy Efficiency and Conservation Program Plan filed on January 22, 2021.

 23. The Interim Order Revising Litigation Schedule and Rescheduling Evidentiary Hearing issued January 26, 2021.

 24. The Joint Stipulation for Admission of Testimony, Exhibits, and Certain Responses to Discovery filed by PECO Energy Company, Office of Consumer Advocate, Office of Small Business Advocate, Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania, Industrial Energy Consumers of Pennsylvania, Tenant Union Representative Network, Natural Resource Defense Council, and Philadelphia Area Industrial Energy Users Group on February 4, 2021.

 25. The Hearing Cancellation Notice issued February 4, 2021.

 26. The Interim Order Adopting Joint Stipulation of Evidence and Admitting Evidence into the Record issued February 8, 2021.

 27. The Joint Petition for Settlement, including Exhibit 1 and Statements A through E, filed by PECO Energy Company, Office of Consumer Advocate, Office of Small Business Advocate, Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania, and Philadelphia Area Industrial Energy Users Group on February 26, 2021.

 28. Natural Resource Defense Council’s Letter of Non-Opposition to the Settlement filed on February 18, 2021.

 29. Tenant Union Representative Network’s Letter of Non-Opposition to the Settlement filed on February 26, 2021.

 30. The Industrial Energy Consumers of Pennsylvania’s letter advising that it does not oppose the Settlement filed on March 1, 2021.

 31. Philadelphia Area Industrial Energy Users Group’s reply comments filed on March 1, 2021.

 32. The submissions of the PECO Energy Company, entitled as follows:

1. PECO Statement No. 1 Direct Testimony of Doreen L. Masalta
2. PECO Statement No. 2 Direct Testimony of Nicholas DeDominicis
3. PECO Statement No. 3 Direct Testimony of William R. Supple
4. PECO Statement No. 4 Direct Testimony of Richard A. Schlesinger
5. PECO Statement No. 2-R Rebuttal Testimony of Nicholas DeDominicis
6. PECO Statement No. 2-SR Supplemental Rebuttal Testimony of Nicholas DeDominicis
7. PECO Exhibit No. 1
8. PECO Exhibit WRS-1
9. PECO Exhibit RAS-1 through RAS-4
10. PECO Exhibit ND-1 through ND-3
11. PECO Exhibit ND-1SR
12. PECO Response to PAIEUG-I-5
13. PECO Response to PAIEUG-I-6

 33. The submissions of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania, entitled as:

1. CAUSE-PA Statement No. 1 Direct Testimony of Jim Grevatt, and accompanying Attachments A and B
2. CAUSE-PA Statement No. 1-SD Supplemental Direct Testimony of Jim Grevatt

 34. The submissions of the Office of Consumer Advocate, entitled as:

1. OCA Statement No. 1 Direct Testimony of Stacy L. Sherwood and Accompanying Attachment A
2. OCA Exhibit SLS-1

 35. The submissions of the Natural Resources Defense Council, entitled as:

1. NRDC Statement No. 1 Direct Testimony of Alice Napoleon and Courtney Lane
2. NRDC Exhibit AN/CL-1 through AN/CL-3

Dated: March 2, 2021 /s/

 Emily I. DeVoe

 Administrative Law Judge

 /s/

 Mark A. Hoyer

 Deputy Chief Administrative Law Judge

**M-2020-3020830 - PETITION OF PECO ENERGY COMPANY FOR APPROVAL OF ITS ACT 129 PHASE IV ENERGY EFFICIENCY AND CONSERVATION PLAN**

*Revised 1/26/21*

JACK R GARFINKLE ESQUIREANTHONY E GAY ESQUIRE

PECO ENERGY COMPANY

2301 MARKET STREETPO BOX 8699PHILADELPHIA PA 19103**215-841-4608**jack.garfinkle@exeloncorp.comanthony.gay@exeloncorp.com

Accepts EServiceKENNETH M KULAK ESQUIRE

CATHERINE G VASUDEVAN ESQ.

MORGAN LEWIS & BOCKIUS LLP

1701 MARKET STREET

PHILADELPHIA PA 19103

**215-963-5384**

ken.kulak@morganlewis.com

catherine.vasudevan@morganlewis.com

Accepts EService

*Representing PECO Energy Company*

JOHN SWEET ESQUIREELIZABETH R MARX ESQUIRE

RIA PEREIRA ESQUIRE

PA UTILITY LAW PROJECT118 LOCUST STREETHARRISBURG PA 17101**717-701-3837**

**717-236-9486717-710-3839**

jsweetpup@palegalaid.net

emarxpul@palegalaid.netrpereirapulp@palegalaid.net

Accepts EService*Representing CAUSE-PA*

STEVEN C GRAY ESQUIREOFFICE OF SMALL BUSINESS ADVOCATEFORUM PLACE555 WALNUT STREET 1ST FLOORHARRISBURG PA 17101**717-783-2525**sgray@pa.gov

MARK C SZYBIST ESQUIRE

1152 15TH ST NW SUITE 300

WASHINGTON DC 20005

**570-447-4019**

mszybist@nrdc.org

Accepts EService

*Representing NRDC*

JAMES M VAN NOSTRAND ESQUIRE

KEYES & FOX LLP

320 FORT DUQUESNE BLVD SUITE 15K

PITTSBURGH PA 15222

**304-777-6050**

jvannostrand@keyesfox.comAccepts EService

*Representing NRDC*

LAURA J ANTINUCCI ESQUIRE

ARON J BEATTY ESQUIRE

OFFICE OF CONSUMER ADVOCATE

555 WALNUT STREET 5TH FLOOR

HARRISBURG PA 17101-1923

**717-783-5048**

lantinucci@paoca.org

abeatty@paoca.org

Accepts EService

CHARIS MINCAVAGE ESQUIRE

ADEOLU A BAKARE ESQUIRE

JO-ANNE THOMPSON ESQUIRE

MCNEES WALLACE & NURICK LLC

100 PINE STREET

PO BOX 1166

HARRISBURG PA 17108-1166

**717-232-8000**

cmincavage@mcneeslaw.com

abakare@mwn.com

jthompson@mcneeslaw.com

Accepts eService

*Representing Philadelphia Area Industrial Energy Users Group*

DERRICK PRICE WILLIAMSON ESQ

BARRY A NAUM ESQUIRE

SPILMAN THOMAS & BATTLE PLLC

1100 BENT CREEK BLVD STE 101

MECHANICSBURG PA 17050

**717-795-2740**

dwilliamson@spilmanlaw.com

bnaum@spilmanlaw.com

Accepts eService

*Representing Industrial Energy Consumers of Pennsylvania*

KINTESHIA S SCOTT ESQUIRE

JOLINE PRICE ESQUIRE

ROBERT W BALLENGER ESQUIRE

JOSIE B H PICKENS ESQUIRECOMMUNITY LEGAL SERVICES1424 CHESTNUT STREETPHILADELPHIA PA 19102**215-227-4378**

kscott@clsphila.org
jpickens@clsphila.org

jprice@clsphila.org

rballenger@clsphila.org

Accepts eService

*Representing Tenant Union Representative Network*

1. It is unclear as to why the notice was republished on January 9, 2021. The notice as published on January 9, 2021, provides that comments and recommendations are to be filed within 20 days, which is January 29, 2021. [↑](#footnote-ref-1)
2. This Motion was also filed at Docket No. M-2020-3020824 (Petition of PPL Electric Utilities for Approval of its Act 129 Phase IV Energy Efficiency and Conservation Plan), Docket No. M-2020-3020818 (Petition of Duquesne Light Company for Approval of its Act 129 Phase IV Energy Efficiency and Conservation Plan), and Docket Nos. Docket No. M-2020-3020820, M-2020-3020821, M-2020-3020822, and M-2020-3020823 (Consolidated Petitions of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, and West Penn Power Company for Approval of Act 129 Phase IV Energy Efficiency and Conservation Plans). [↑](#footnote-ref-2)
3. Due to the short period of time between the scheduling of the conference and the conference itself, a court reporter was not scheduled and the conference was held off the record. The undersigned discussed only procedural matters with the parties. [↑](#footnote-ref-3)