August 25, 2020

Via Efiling
Rosemary Chiavetta, Secretary
PA Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Tenant Union Representative Network (TURN) v. PECO Energy Company

Dear Secretary Chiavetta:

Enclosed for electronic filing please find the Formal Complaint of the Tenant Union Representative Network against PECO Energy Company seeking enforcement of a Settlement agreement at Docket No. M-2012-2290911.

Due to the ongoing COVID-19 pandemic, this Complaint is being served via email. As indicated on the attached Certificate of Service, a copy of this Complaint is being served on all parties to the Settlement.

Sincerely,

Joline R. Price, Esquire
Attorney ID No. 315405

Enclosures

Cc: Certificate of Service

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Tenant Union Representative Network Complainant v. PECO Energy Company Respondent	: : : : :	Docket No. F-

<u>Certificate of Service</u>

I hereby certify that I have this day served copies of the Formal Complaint of the Tenant Union Representative Network upon the parties of record in the above captioned proceeding in accordance with the requirements of 52 Pa. Code §1.54 in the manner and upon the persons listed below.

<u>VIA ELECTRONIC MAIL</u>

Jennedy Johnson, Esq.
Ward Smith, Esq.
PECO Energy Company
2301 Market Street
Philadelphia, PA 19101

Tonya McCloskey, Esq.
Christy M. Appleby, Esq.
Office of Consumer Advocate
555 Walnut Street
Forum Place, 5th Floor
Harrisburg, PA 17101-1923

Elizabeth R. Marx, Esq.
John W. Sweet, Esq.
Ria M. Pereira, Esq.
Pennsylvania Utility Law Project
118 Locust Street
Harrisburg, PA 17101
pulp@palegalaid.net
Counsel for CAUSE-PA

Joline R. Price, Esquire
Attorney ID: 315405
Counsel for TURN
COMMUNITY LEGAL SERVICES, INC.
jprice@clsphila.org
(215) 981-3756

August 25, 2020

BEFORE THE

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Tenant Union Representative Network	:	
Complainant	:	
v.	:	Docket No. F-
PECO Energy Company	:	
Respondent	:	

FORMAL COMPLAINT

I. Introduction

1. Complainant is the Tenant Union Representative Network (TURN).
2. Complainant is located at 100 S. Broad Street, Suite 800, Philadelphia, PA 19120.
3. Complainant is a not-for-profit advocacy organization composed of moderate and low income tenants, many of whom are either customers of or dependent on electric service from PECO.
4. Complainant is represented in this proceeding by:

Joline Price, Esq.
Robert Ballenger, Esq.
Josie Pickens, Esq.

Community Legal Services
1424 Chestnut Street
Philadelphia, PA 19102
(215) 981-3756
jprice@clsphila.org
rballenger@clsphila.org
jpickens@clsphila.org

5. Respondent is PECO Energy Company (PECO), an electric distribution company and natural gas distribution company with main offices located at 2301 Market Street, Philadelphia, PA 19103.
6. The Commission's regulations require PECO to deliver customer bills compliant with its approved rate schedules.[1]
7. PECO operates a statutorily mandated and Commission approved Customer Assistance Program (CAP), which provides a bill discount to eligible low-income customers.[2]
8. CAPs are designed as an alternative to traditional collection methods for low-income customers.[3] Upon enrollment in a CAP, CAP customers receive bills according to approved residential rates, with an adjustment based on household size and gross income.[4]
9. On March 20, 2015, TURN, PECO and other parties entered into a comprehensive settlement in the matter of PECO Energy Company Universal Service and Energy Conservation Plan for 2013-2015, Docket No. M-2012-2290911 (Settlement).[5] The Settlement is attached hereto as Exhibit A.
10. The parties filed a Joint Petition for Settlement on March 20, 2015, attaching the Settlement as a term sheet, seeking Commission approval of the Settlement. The Joint Petition for Settlement is attached hereto as Exhibit B.

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[1] 52 Pa. Code §56.11; see also PECO Energy Company Electric Service Tariff, https://www.peco.com/SiteCollectionDocuments/CurrentTariffElec.pdf; PECO Energy Company Gas Service Tariff, https://www.peco.com/SiteCollectionDocuments/CurrentGasTariff.pdf.
[2] See 52 Pa. Code §69.261 ("CAPs are designed as alternatives to traditional collection methods for low-income customers.").
[3] Id.
[4] 52 Pa. Code §69.265; see generally Pennsylvania Public Utility Commission, *Your Rights and Responsibilities as a Utility Customer*, http://www.puc.state.pa.us/General/consumer_ed/pdf/Consumer_Rights_Responsibilities.pdf.
[5] The other parties to the Settlement were the Office of Consumer Advocate (OCA), the Coalition for Affordable Utility Service and Energy Efficiency in Pennsylvania (CAUSE-PA), and Action Alliance of Senior Citizens of Greater Philadelphia (Action Alliance).

11. The Joint Petition was approved, without modification to the Settlement, by the Commission on July 8, 2015.

12. Through this Complaint, TURN seeks relief from the Commission to enforce the terms of the Settlement, which require PECO to implement the energy burdens set forth in the Commission's CAP Policy Statement, as adopted on November 5, 2019 and published in the Pennsylvania Bulletin on March 21, 2020.

II. Background

A. PECO's CAP

13. PECO operates a CAP program for residential customers with income at or below 150% of the Federal Poverty Level.

14. In a recent filing, PECO estimated approximately 112,000 households would be enrolled in CAP in 2020, and that 269,008 customers are potentially eligible for CAP.[6]

B. COVID-19

15. On March 6, 2020, Governor Wolf declared a disaster emergency due to the COVID-19 pandemic that was and continues to be devastating to the Commonwealth of Pennsylvania and its citizens. Governor Wolf renewed the disaster emergency on June 3, 2020.[7]

16. As a result of COVID-19, customers in PECO's service territory are experiencing an

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[6] PECO Energy Company's Amended Proposed 2019-2024 Universal Service and Energy Conservation Plan, Revised Six Year Plan, Docket No. P-2020-3020727 (July 8, 2020) at 2, 10, http://www.puc.state.pa.us//pcdocs/1669220.pdf.

[7] See Governor's Amendment to Proclamation of Disaster Emergency (June 3, 2020), https://www.governor.pa.gov/wp-content/uploads/2020/06/20200603-TWW-amendment-to-COVID-disaster-emergency-proclamation.pdf

unprecedented economic crisis and record unemployment.[8]

17. In Philadelphia, COVID-19 has disproportionately impacted Black and Latinx households who experience higher rates of COVID-19 infection and death.[9]

C. Creation of the CAP Fixed Credit Option (FCO)

18. PECO filed its initial USECP for 2013-2015 on February 28, 2012, which was then docketed at docket number M-2012-2290911.

19. TURN was an active participant at that docket, filing comments[10] and participating in PUC mandated mediation.[11] Relevant to this action, PECO was directed by the Commission to work with the parties to develop a new CAP design.[12]

20. Following extensive settlement negotiations, on March 20, 2015, PECO, TURN, Action Alliance, CAUSE-PA and the OCA filed the Joint Petition for Settlement.

21. The Joint Petition notes that the Settlement "sets forth a comprehensive proposal to revise PECO's Customer Assistance Program." Joint Petition at ¶1 (attached hereto as Exhibit B).

22. As discussed in the Joint Petition, "[t]he Joint Petitioners engaged the services of the Commission's mediation office, and conducted extensive mediation sessions." Joint

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[8] Philadelphia County saw 91,040 unemployment claims in the month of April 2020, a 1321.3% increase over the previous April. Center for Workforce Information & Analysis, Pennsylvania Regular UC Benefits, Initial Claims by Workforce Development Area (May 15, 2020).

[9] See Sarah Gantz, Philadelphia Inquirer, *COVID-19 is killing over twice as many Black Americans as whites, new report says* (Aug. 14, 2020), https://www.inquirer.com/health/coronavirus/coronavirus-covid-19-black-latino-pandemic-death-rate-race-disparities-20200814.html

[10] See PECO Energy Company Universal Service and Energy Conservation Plan for 2013-2015 Submitted in Compliance with 52 Pa. Code §§ 54.74 and 62.4, Docket No. M-2012-2290911, Comments of Tenant Union Representative Network ("TURN"), Action Alliance of Senior Citizens of Greater Philadelphia ("Action Alliance") and the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania ("CAUSE-PA") Concerning PECO's Universal Service Three Year Plan (November 28, 2012).

[11] See, e.g., PECO Energy Company Universal Service and Energy Conservation Plan for 2013-2015 Submitted in Compliance with 52 Pa. Code §§ 54.74 and 62.4, Docket No. M-2012-2290911, PECO CAP Design Mediation Status Update (August 29, 2014).

[12] See PECO Energy Company Universal Service and Energy Conservation Plan for 2013-2015, Docket No. M-2012-2290911, Secretarial Letter (April 25, 2014).

Petition at ¶7. Further, "[a]s a result of that extensive mediation effort and related settlement discussions, the Joint Petitioners reached agreement on a new CAP design and related issues, as set forth in the Term Sheet." Joint Petition at ¶8.

23. The Settlement was attached as Exhibit A to the Joint Petition. Joint Petition at 5.

24. The Settlement sets forth, in detail, the structure of the CAP FCO, to be implemented in October 2016.

25. As described in the Settlement, the new CAP design was to be based on a Fixed Credit Option, which included a series of steps to calculate a customer's credit. First, PECO would determine a customer's prior year's undiscounted charges using either actual usage or a pro forma profile to approximate usage, and comparing that usage to a weather normalization table. Settlement at 1-2 (attached hereto as Exhibit A).

26. Next, PECO would determine a household's income and Federal Poverty Level. Settlement at 2.

27. The Settlement then sets forth how PECO would determine a customer's allowable energy burden.[13] Settlement at 2.

28. The FCO was implemented utilizing the energy burdens set forth in Table 1 of the Settlement, reproduced below:

Table 1: Energy Burdens

FPL	Electric Non-Heating	Electric Heating	Electric with Gas Heating
0-50%	5%	13%	13%
51-100%	6%	16%	16%
101-150%	7%	17%	17%

Settlement at 3.

[13] An "energy burden" is a percentage of income that is considered an affordable energy bill for low-income households.

29. Regarding the energy burdens set forth in Table 1, above, the Settlement provides:

> The table is based upon the ranges found at 52 Pa. Code §69.265 (2)(i)(A). In each case the energy burden listed in the table is the maximum allowable energy burden for that poverty level. ***If the Commission changes the energy burden ranges set forth in its Policy Statement, PECO will utilize the new maximum allowable energy burden for each poverty level.***
>
> Settlement at 2 n. 3 (emphasis added).

30. The Settlement further states that PECO will calculate a customer's Annual Credit by multiplying "the Verified Household Income times that household's allowable Energy Burden to determine an Annual CAP Bill amount." Settlement at 3.

31. According to the Settlement, PECO would then subtract the Annual CAP Bill from the Usage calculation to determine a customer's annual credit. Settlement at 3.

32. The Settlement sets forth that the annual credit would be subject to an annual maximum credit. Settlement at 3-4.

33. The annual credit would then be applied to the customer's bill over the course of the year, "in a manner intended to track the seasonal nature of usage." Settlement at 4-5.

34. The Settlement sets forth that a customer's credit would be recalculated periodically to adjust the customer's annual credit. Settlement at 5-6.

35. The Settlement specifies two cost containment mechanisms: monthly minimum billing amounts, and the maximum annual credits. Settlement at 7-8.

36. The Settlement specifies how the "shortfall", or total amount of credits to CAP customers, is recovered through PECO's Universal Service Fund Charge. Settlement at 8.

37. As filed, the Settlement reflected a comprehensive proposal as to the structure of PECO's CAP program. Joint Petition at ¶1.[14]

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[14] See also PECO Energy Company Universal Service and Energy Conservation Plan for 2013-2015 Submitted in Compliance with 52 Pa. Code §§ 54.74 and 62.4, Docket No. M-2012-2290911, PECO Energy Company Statement

38. The Joint Petition was signed by counsel for all parties, with the following statement in conclusion:

> WHEREFORE, the Joint Petitioners, intending to be legally bound, respectfully request that the Commission approve this Joint Petition, including all terms and conditions set forth in the Term Sheet.

Joint Petition at 4.

39. In its Statement in Support of Settlement, PECO stated that "PECO avers that this comprehensive settlement is in the public interest and, therefore, requests that the Commission approve the settlement in its entirety."[15]

40. In its Statement in Support of Settlement, OCA stated that the "terms and conditions of the Settlement represent the result of extensive negotiations between the parties, are in the public interest and should be approved."[16]

41. In its Statement in Support of Settlement, CAUSE-PA stated that "the FCO design satisfactorily addresses the varied interests and issues in this proceeding."[17]

42. On June 11, 2015, Administrative Law Judge Cynthia Williams Fordham issued a recommended decision approving the Joint Petition for Settlement without modification.[18]

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in Support of Joint Petition for Settlement (April 30, 2015) at 12. ("The Term Sheet is a comprehensive settlement among the aforementioned parties …"). PECO further stated in its Statement in Support that "[t]he Term Sheet improves affordability while simultaneously imposing controls on overall program costs…". Id. at 10.

[15] Id. at 1.

[16] See PECO Energy Company Universal Service and Energy Conservation Plan for 2013-2015 Submitted in Compliance with 52 Pa. Code §§ 54.74 and 62.4, Docket No. M-2012-2290911, Office of Consumer Advocate's Statement in Support of Settlement (March 20, 2015) at 3.

[17] See PECO Energy Company Universal Service and Energy Conservation Plan for 2013-2015 Submitted in Compliance with 52 Pa. Code §§ 54.74 and 62.4, Docket No. M-2012-2290911 Statement of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania in Support of Settlement (March 20, 2015) at 6.

[18] PECO Energy Company Universal Service and Energy Conservation Plan for 2013-2015, Docket No. M-2012-2290911, June 17, 2015 Recommended Decision at 36.

43. In doing so, ALJ Fordham noted TURN's position that "although the methodology is more complicated than the PIP advocated by TURN et al. and CAUSE-PA, it reflects a reasonable compromise to improve the affordability for PECO's CAP participants."[19]

44. ALJ Fordham also stated with regard to the Settlement:

> The parties have presented clear and reasonable reasons for approval of the FCO program. After considering the Joint Petition for Settlement, including the affordability of the new program, the cost containment, the cost recovery, arrearage forgiveness, usage reduction, the proposed evaluation after two years and the ongoing collaborative to address issues that arise and the savings achieved by not litigating the case fully, it is my opinion that the Settlement is fair, just, reasonable and in the public interest. Accordingly, I recommend that the Joint Petition for Settlement be approved.[20]

45. On July 8, 2015, the Commission adopted ALJ Fordham's Recommended Decision without modification, approving the Settlement.[21]

46. Following approval of the Settlement, PECO incorporated the CAP FCO Design into its Universal Service and Energy Conservation Plan for 2016-2018, incorporating the language of the Settlement into Attachment B thereto.[22] A copy of Attachment B to PECO's Universal Service and Energy Conservation Plan for 2016-2018 is attached hereto as Exhibit C.

47. In October 2016, PECO launched the CAP FCO.

48. Notwithstanding the introduction of the FCO, PECO's CAP has failed to result in affordable bills for many of PECO's CAP customers. PECO's failure to implement the

[19] PECO Energy Company Universal Service and Energy Conservation Plan for 2013-2015, Docket No. M-2012-2290911, June 17, 2015 Recommended Decision at 23 (citing TURN *et al*. Statement in Support at 4).
[20] PECO Energy Company Universal Service and Energy Conservation Plan for 2013-2015, Docket No. M-2012-2290911, June 17, 2015 Recommended Decision at 36.
[21] PECO Energy Company Universal Service and Energy Conservation Plan for 2013-2015, Docket No. M-2012-2290911, July 8, 2015 Order.
[22] See PECO Energy Company Universal Service and Energy Conservation Plan 2016-2018, Docket No. M-2015-2507139.

Commission's new energy burden in a manner consistent with PECO's obligation under the Settlement exacerbates this unaffordability.

49. While PECO has filed its next USECP and proposes a new CAP design in the future,[23] the Commission has not reviewed or approved that USECP.

50. PECO continues to operate its CAP FCO unless and until the Commission approves PECO's new USECP and new CAP design.

51. Unless and until the Commission approves a new CAP design, PECO is obligated to operate its CAP pursuant to the terms of its existing USECP and the Commission-approved Settlement.

52. Both the Settlement, as approved by the Commission, and PECO's current USECP require PECO to adjust the energy burdens used in the FCO to be consistent with the energy burdens set forth in the Commission's CAP Policy Statement.

53. PECO affirmed this requirement in a filing with the Commission, stating that "PECO notes, however, that if the Commission-established energy burden is changed, PECO's CAP FCO program has a 'pass through' clause allowing for automatic implementation."[24]

54. TURN has relied upon the terms of the carefully negotiated Settlement, and specifically the pass through clause that automatically updates the energy burdens used in PECO's FCO. For example, TURN relied upon the terms of the Settlement in its advocacy for improvements to the Commission's CAP Policy Statement.

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[23] PECO Energy Company's Amended Proposed 2019-2024 Universal Service and Energy Conservation Plan, Revised Six Year Plan, Docket No. P-2020-3020727 (July 8, 2020), http://www.puc.state.pa.us//pcdocs/1669220.pdf.

[24] See Energy Affordability for Low-Income Customers, Docket No. M-2017-2587711, Initial Comments of PECO Energy Company (May 8, 2019) at 8, http://www.puc.state.pa.us//pcdocs/1618633.pdf.

D. Reduction of Energy Burdens in the Commission's CAP Policy Statement

55. On November 5, 2019, the Commission entered a Final Policy Statement and Order at Docket No. M-2019-3012599 (November 5th Order), which ordered a number of critical reforms to the Commission's CAP Policy Statement at 52 Pa. Code §§ 69.261-.267.[25]

56. In its November 5th Order, the Commission found that, based on extensive data, analysis, and information in the underlying proceedings,[26] the current CAP energy burden standards were excessive and did not fulfill the Commission's statutory obligation to ensure that universal service programming is appropriately funded and accessible to low-income customers.[27] Accordingly, the Commission amended its Policy Statement to reduce the energy burden standards for customers enrolled in a utility-run CAP, setting a maximum *combined* energy burden for electric and heating of 10% for households with income between 51-150% of the Federal Poverty Level (FPL), and 6% for households with income between 0-50% FPL.[28] For electric baseload (non-heating) customers, the maximum was set at 4% for customers with income between 51-150% FPL, and 2% for customers with income between 0-50% FPL.[29] In doing so, the Commission found that the existing maximum energy burden standards "do not reflect reasonable or affordable payments for many low-income customers" - especially for those with income at or below 50% FPL.[30]

57. The Commission's CAP Policy Statement was published in the Pennsylvania Bulletin on March 21, 2020.[31]

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[25] 2019 Amendments to CAP Policy Statement, Docket No. M-2019-3012599, Final Policy Statement and Order, at 27 (order entered Nov. 5, 2019) (hereinafter November 5th Order).
[26] Energy Affordability for Low-Income Customers, Docket No. M-2017-2587711, and Review of Universal Service and Energy Conservation Programs, Docket No. M-2017-2596907.
[27] November 5th Order at 27.
[28] Id. at 32-33.
[29] Id.
[30] Id. at 27, 29-30.
[31] 50 Pa. B. No. 12 at 1691-1695.

58. In addition to adjusting the maximum energy burden standards, the Commission made additional reforms to its CAP Policy Statement to improve the accessibility and affordability of the program.[32]

59. On November 20, 2019, the Energy Association of Pennsylvania (EAP) and the Office of Consumer Advocate (OCA) each – on separate grounds – filed Petitions for Reconsideration and/or Clarification of the Commission's November 5th Order. EAP also filed a Petition to Stay the Commission's November 5 Order until resolution of its Petition for Reconsideration. On November 25, 2019, the Commission granted the stay as to specific ordering paragraphs as requested by EAP.[33]

60. On February 6, 2020, the Commission issued an Order denying the OCA Petition for Reconsideration and/or Clarification.[34]

61. On February 6, 2020, the Commission issued an Order, granting, in part, EAP's Petition for Reconsideration and/or Clarification (EAP Order).[35]

62. In pertinent part, the Commission provided the following clarification in the EAP Order:

> We further clarify that the following information is only required from utilities that voluntarily propose to change their USECPs pursuant to the amendments to the CAP Policy Statement:
>
> - Petition to Amend and Addendum to reflect proposed CAP changes to an existing USECP. This filing shall include enrollment and budget implications.
> - Addendum to reflect proposed CAP changes to a pending proposed USECP. This filing shall include enrollment and budget implications.[36]

[32] Id. at 101-104.
[33] 2019 Amendments to Policy Statement on Customer Assistance Program, 52 Pa. Code § 69.261-267, Docket No. M-2019-3012599 (Order entered November 25, 2019).
[34] 2019 Amendments to Policy Statement on Customer Assistance Program, 52 Pa. Code § 69.261-267, Docket No. M-2019-3012599, Order on Reconsideration/Clarification (Order entered February 6, 2020).
[35] 2019 Amendments to Policy Statement on Customer Assistance Program, 52 Pa. Code § 69.261-267, Docket No. M-2019-3012599, Order on Reconsideration and Clarification (Order entered February 6, 2020) (hereinafter EAP Order).
[36] Id. at 12.

63. Pursuant to the November 5th Order, the maximum allowable energy burdens in the Commission's CAP Policy Statement are as follows:[37]

FPL	Electric Non-Heating	Electric Heating	Electric with Gas Heating
0-50%	2%	6%	6%
51-100%	4%	10%	10%
101-150%	4%	10%	10%

64. As described above, PECO is required to implement these energy burdens pursuant to the Commission-approved Settlement that created the FCO.

65. PECO has not yet adopted these energy burdens as part of its CAP FCO.

E. *Adoption of the current energy burdens does not amend or modify PECO's USECP*

66. As designed, PECO's FCO in operation makes several automatic adjustments, without need for Commission approval.

67. PECO adjusts a CAP customer's fixed credit automatically if the customer experiences a change in income. The Commission approved this manner of adjustment in approving the Settlement, without modification.

68. PECO adjusts a CAP customer's fixed credit automatically based on the customer's usage profile. The Commission approved this manner of adjustment in approving the Settlement, without modification.

69. PECO adjusts all CAP customer's maximum allowable CAP credit automatically when PECO's base rates increase. The Commission approved this manner of adjustment in approving the Settlement, without modification.

[37] 52 Pa. Code § 69.265(2)(i).

70. Like each of the foregoing adjustments, PECO's USECP and the Settlement provide for the automatic adjustment of CAP credits when the Commission approves new energy burdens in its CAP Policy Statement.

71. Because PECO's UESCP and the Settlement provide for the automatic adjustment to incorporate the Commission's approved energy burdens, PECO is not required to make any amendment to its existing USECP pursuant to the EAP Order.

72. PECO is bound by the terms of the Settlement.

73. PECO's obligation to adopt the new energy burdens does not derive from the Commission's CAP Policy Statement and EAP Order. PECO is required to adopt the new energy burdens to remain in compliance with its obligations under the Settlement.

74. On July 17, 2020, Counsel for TURN notified PECO in writing that it was in violation of the Settlement and its USECP and demanded that PECO implement the Commission's energy burdens.

75. Counsel for TURN discussed PECO's obligations pursuant to the Settlement and its USECP with counsel for PECO on July 31, 2020 and again on August 19, 2020.

76. PECO has failed to take any action to comply with the energy burden pass through provision of the Settlement and its USECP.

III. Count I – PECO is in Violation of the Commission-Approved FCO Settlement

77. Paragraphs 1-76 of this Complaint are incorporated herein by reference.

78. The Commission favors settlement.[38]

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[38] See 52 Pa. Code §§ 5.231, 69.391 and 69.401. See also PECO Energy Company Universal Service and Energy Conservation Plan for 2013-2015, Docket No. M-2012-2290911, June 17, 2015 Recommended Decision.

79. When the Commission approved the Settlement, without modification, its terms became binding upon PECO and subject to the Commission's enforcement authority.

80. Upon issuance of the November 5th Order, the Commission's approved energy burdens were required to be implemented in PECO's CAP, which automatically adjusts according to its terms to incorporate those energy burdens.

81. PECO has failed to pass through those energy burdens, as it is legally required to do, even after the CAP Policy Statement was published in the Pennsylvania Bulletin on March 21, 2020.

82. By failing to automatically adjust the FCO to utilize the Commission's new maximum allowable energy burdens, PECO is violating the Commission's Order approving the Settlement.

83. As a result, PECO is continuing to bill CAP customers amounts in excess of the charges that would be billed if PECO complied with the energy burden pass through provision of the Settlement.

84. At the same time, PECO is preventing new CAP applicants from receiving discounts by continuing to utilize energy burdens which have been superseded pursuant to the terms of the Settlement.

85. By failing to comply with the pass through provision of the Settlement, PECO is depriving CAP customers and applicants of CAP credits required now, in the midst of a pandemic and an economic crisis, when those customers are in great need of financial

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After considering the Joint Petition for Settlement, including the affordability of the new program, the cost containment, the cost recovery, arrearage forgiveness, usage reduction, the proposed evaluation after two years and the ongoing collaborative to address issues that arise and the savings achieved by not litigating the case fully, it is my opinion that the Settlement is fair, just, reasonable and in the public interest.

Id. at 36.

assistance.

86. PECO's failure to comply with the Settlement has resulted in harm, including economic hardship. PECO's failure to take any action to implement the Commission's new energy burdens puts it in violation of the Settlement.

IV. Count II – PECO is in Violation of the Terms of its USECP

87. Paragraphs 1-86 of this Complaint are incorporated herein by reference.

88. The Electric Generation Customer Choice and Competition Act (Choice Act) required that the PUC must "at a minimum, continue the protections, policies and services that now assist customers who are low-income to afford electricity service."[39]

89. In addition, the Commission must "ensure that universal service and energy conservation policies, activities and services are appropriately funded and available in each electric distribution service territory. . . . Programs under this paragraph shall be subject to the administrative oversight of the commission, which shall ensure that the programs are operated in a cost-effective manner."[40]

90. The Choice Act defined universal services and energy conservation as follows:

> Policies, protections and services that help low-income customers to maintain electric service. The term includes customer assistance programs, termination of service protections and policies and services that help low-income customers reduce or manage energy consumption in a cost-effective manner, such as the low-income usage reduction programs, application of renewable resources and consumer education.[41]

91. The Commission's CAP Policy Statement defines Customer Assistance Programs as

> [A]lternatives to traditional collection methods for low income customers. Customers participating in CAPs agree to make monthly payments based on household size and gross household income. Customers make regular monthly payments, which may be for an amount that is less than the current tariff bill for

[39] 66 Pa. C.S. § 2802 (10).
[40] 66 Pa. C.S. § 2804(9).
[41] 66 Pa. C.S. § 2803.

> utility service including pre-CAP arrearages, in exchange for continued provision of the service. Class A electric utilities and natural gas utilities with gross intrastate annual operating revenue in excess of $40 million should adopt the guidelines in §§ 69.263-69.265 (relating to CAP development; scope of CAPs; and CAP design elements) implementing residential CAPs.[42]

92. The PUC's CAP Policy Statement states that "[b]efore implementing, revising or expanding a CAP, a utility should file its CAP proposal to the Bureau of Consumer Services and on stakeholders from the utility's most recent USECP proceeding. This will allow for staff review, comments, discovery, and revisions prior to Commission approval of design elements."[43]

93. PUC regulation requires PECO as an Electric Distribution Company (EDC) to "submit to the Commission for approval an updated universal service and energy conservation plan every 3 years."[44]

94. PGW's current Universal Service and Energy Conservation Plan (USECP) was first filed on October 1, 2015 and incorporates the provisions of the Settlement.

95. Following a final Commission Order on February 10, 2017, PECO filed its Universal Service and Energy Conservation Plan 2016 - 2018 on February 17, 2017.

96. PECO's failure to provide low-income customers with credits adequate to attain the Commission's maximum energy burden based on their income violates the terms of its USECP and constitutes unreasonable service in violation of 66 Pa. C.S. §1501.

V. Conclusion

For the foregoing reasons, Complainant respectfully requests the Public Utility Commission grant the following relief:

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[42] 52 Pa. Code § 69.261.
[43] 52 Pa. Code § 69.263(c).
[44] 52 Pa. Code § 54.74.

A. Find that PECO violated the terms of the Commission approved Settlement at Docket Number M-2012-2290911.

B. Find that PECO violated its USECP at Docket Number M-2015-2507139.

C. Find that PECO's violation(s) of its USECP constitute unreasonable service in violation of 66 Pa. C.S. §1501.

D. Order PECO to implement the energy burdens in the Commission's CAP Policy Statement as required by the Settlement and PECO's USECP.

E. Order PECO to retroactively calculate CAP Credits for all CAP customers back to the date the Commission approved the new energy burdens, and provide bill credits to CAP customers or reduce past-due balances as appropriate.

F. Order PECO to provide retroactive arrearage forgiveness for all partial payments that would have satisfied full payment under the revised bills.

G. Require PECO to make any necessary filing with the Commission to effectuate the implementation of the energy burdens in the Commission's CAP Policy Statement and the relief requested herein.

H. Fine PECO for its willful violation of a Commission approved Settlement.

I. Grant any other such relief as is just and appropriate.

Respectfully submitted,

Joline R. Price, Esquire (Attorney ID: 315405)
Robert W. Ballenger, Esquire (Attorney ID: 93434)
Josie B. H. Pickens, Esquire (Attorney ID: 309422)

COMMUNITY LEGAL SERVICES, INC.
1424 Chestnut Street
Philadelphia, PA 19102
Telephone: 215-981-3756
jprice@clsphila.org
rballenger@clsphila.org
jpickens@clsphila.org

VERIFICATION

I, **Phil Lord,** on behalf of the Tenant Union Representative Network ("TURN") hereby state that the facts contained in the foregoing pleading 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 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

Phil Lord

Date: August 21, 2020

Phil Lord

Executive Director
Tenant Union Representative Network

Exhibit A:

Settlement

Exhibit A

PECO CAP Mediation Settlement Term Sheet

(“Term Sheet”)

PECO CAP Design Mediation
Settlement Term Sheet
Docket No. M-2012-2290911

A. FCO/CAP Design

1. Determination of Credits:

Beginning with PECO's October 2016 IT push, PECO will implement a new design for its Customer Assistance Program ("CAP"). The new CAP design will be based upon the Fixed Credit Option ("FCO"), with customer benefits calculated as follows:

Step 1: Determine customer's prior year's undiscounted charges:

- For each CAP customer, PECO will review the customer's bills at that residence for the prior 12 months and determine the dollar amount that the customer would have been charged *on an undiscounted basis* in those prior 12 months for their PECO-supplied utility service, including both the regulated and unregulated portions of that service (that is, including generation service, whether obtained from an EGS or PECO, and natural gas commodity service, whether obtained from an NGS or PECO) (the "Base Charge(s)").

- For regulated charges, the undiscounted charge will be calculated using the PECO tariff rates in effect for the time period being examined. For generation charges, the undiscounted charges will be calculated using PECO's generation price-to-compare ("PTC") for the time period being examined. For natural gas commodity charges, the undiscounted charges will be calculated using PECO's natural gas PTC for the time period being examined. (For the effect of base rate cases and quarterly GSA filings on determination of Base Charges, see Step 6 below.)

- Pro forma method of determining prior year's usage: If the customer does not have 12 months of prior service at their current residence at the time the above calculation is conducted, then PECO will create a pro forma profile to calculate that customer's trailing twelve months usage/charges. The pro forma profile will be based on the following, in order of preference if data is available:[1]

[1] Because of the quarterly recalculations discussed in Step 6 below, these pro forma calculations will start to be replaced by data on the customer's actual usage three months after the pro forma calculation is done.

- Usage at that residence by the customer for the months available and actual usage by prior customers for the months unavailable.
- Usage at that residence by prior customers;
- Usage at similar residences or CAP residences in the same area; or
- System-wide usage or CAP usage averages.

- PECO will prepare a weather normalization table that compares the weather in each of the trailing twelve months to "normal" weather for that calendar month, and which gives an adjustment factor to normalize usage and charges for each month on a weather-adjusted basis. This chart will be updated each month so that, at any time, PECO has available adjustment factors for the trailing 12 months. Once PECO has determined the Base Charges, those charges will be weather-normalized using the weather normalization table to create the "Weather-Normalized Base Charges."

Step 2: Determine Verified Household Income and Federal Poverty Level:

- PECO's existing income verification procedures will be used to determine Verified Household Income. PECO will then use that information and the number of people in the household to determine the household's Federal Poverty Level.[2] Customers determined eligible as a result of receipt of a LIHEAP Cash Grant will, if possible, be placed into the federal poverty level commensurate with the grant amount. If PECO is not able to determine the FPL of a customer from LIHEAP Cash Grant materials, then PECO will utilize the LIHEAP Cash Grant recipient list to perform FCO outreach to the Grant recipients.

Step 3: Determine customer's allowable Energy Burden:

- Once the household's Federal Poverty Level has been determined, PECO will determine the household's allowable Energy Burden, as follows:[3]

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[2] A customer's Federal Poverty Level percentage will be determined by reference to the then-current version of the Federal Poverty Guidelines published by the Federal Department of Health and Human Services.

[3] The table is based upon the ranges found at 52 Pa. Code §69.265 (2)(i)(A). In each case, the energy burden listed in the table is the maximum allowable energy burden for that poverty level. If the Commission changes the energy burden ranges set forth in its Policy Statement, PECO will utilize the new maximum allowable energy burden for each poverty level.

Table 1: Energy Burdens

FPL	Electric Non-Heating[4]	Electric Heating[5]	Electric with Gas Heating[6]
0-50%	5%	13%	13%
51-100%	6%	16%	16%
101-150%	7%	17%	17%

Step 4: Calculate customer's Annual Credit:

- PECO will determine the customer's Annual Credit by multiplying the Verified Household Income times that household's allowable Energy Burden to determine an Annual CAP Bill amount. The Annual CAP Bill will then be subtracted from the Weather-Normalized Base Charges; the resulting amount is the Annual Credit amount for that household. That is: Weather-Normalized Base Charges – Annual CAP Bill = Annual Credit.

- The maximum Annual Credit for any household will be[7]:

[4] Applies to PECO Rate R customers who use a non-PECO heating fuel source, including PGW, propane, and oil.

[5] Applies to PECO Rate RH customers.

[6] Applies to PECO dual commodity customers.

[7] The maximum Annual Credit was calculated to provide bills within Commission energy burden guidelines to approximately 93% of Rate R customers (including dual fuel customers), and approximately 96% of Rate RH customers. In addition, application of the Commission-required minimum monthly bills ($12 for Rate R; $30 for Rate RH) results in bills above Commission energy burden guidelines for approximately 6% of PECO's CAP customers overall. The combination of those two effects will result in 12% of PECO's Rate R, and 10% for PECO's Rate RH, with bills exceeding Commission energy burden guidelines, assuming a normal weather year.

The maximum Annual Credit levels set forth above will remain at these levels for four years after the program is implemented in October 2016. After four years, PECO will confer with the other signatories to determine whether there is a consensus new maximum Annual Credit level. If so, PECO will adopt that new level in its next-filed Three-Year Plan. If no consensus is reached, PECO may propose a new maximum Annual Credit level in its next-filed Three-Year Plan.

The maximum Annual Credits set forth in the table have been determined in an effort to reduce the number of CAP customers whose bills exceed commission energy burden guidelines. The Commission has previously granted PECO permission to apply maximum annual credits on a system-wide average,

Table 2: Maximum Annual Credits

FPL	Electric Non-Heating (Rate R)[8]	Electric Heating (Rate RH)[9]	Electric with Gas Heating (PECO Dual Commodity Customer)[10]
0-50%	$2,048	$2,922	Same as Rate R for electric service; no maximum for gas service[11]
51-100%	$1,389	$1,881	
101-150%	$1,241	$1,661	

(These are the credit limits for any given household. As noted below in the Cost Containment section, PECO will also continue to apply a system-wide cost containment mechanism in which the total cost of its program is limited to the number of participants in the program times the inflation-adjusted Maximum Annual Credit set forth set forth in the Commission's guidelines at 52 Pa. Code § 69.265(3)(v).)

Step 5: Apply Annual Credit to Bill:

- PECO will apply the total dollar amount of the Annual Credit over the course of the year. The credits will be applied in a manner intended to track the seasonal nature of usage, using the following monthly percentages[12]:

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rather than as an individual customer limit. This settlement continues that practice. See also section A3 (Cost Containment) below.

[8] If PECO is granted an electric base rate increase, the maximum allowable credits will be increased by a percentage equal to the system-wide residential distribution rate increase, applied to the portion of the Maximum Credit that is attributable to distribution rates.

[9] If PECO is granted an electric base rate increase, the maximum allowable credits will be increased by a percentage equal to the system-wide residential heating distribution rate increase, applied to the portion of the Maximum Credit that is attributable to distribution rates.

[10] If PECO is granted a gas base rate increase, the maximum allowable credits will be increased by a percentage equal to the system-wide residential distribution rate increase, applied to the portion of the Maximum Credit that is attributable to distribution rates.

[11] This continues PECO's current gas CAP program policy.

[12] PECO may adjust these percentages to reflect the most current data available to it at any given time. However, any such adjustments will affect only the distribution of the Annual Credit to bills, not the amount of the Annual Credit.

Table 3: Seasonality Distribution

Month	Rate R	Rate RH	Gas
Jan	9.6%	13.9%	20.6%
Feb	8.9%	14.2%	19.5%
Mar	8.9%	12.2%	14.5%
Apr	7.0%	9.0%	9.6%
May	5.8%	5.3%	4.5%
June	7.7%	5.2%	2.6%
July	11.3%	6.4%	2.0%
Aug	10.6%	5.9%	1.8%
Sept	9.3%	5.4%	2.0%
Oct	6.6%	4.5%	2.6%
Nov	6.6%	6.4%	6.9%
Dec	8.7%	11.7%	13.6%
Total	100.0%	100.0%	100.0%

- Credits will be applied on a "rolling" basis; that is, if the customer's credit in a month exceeds the outstanding balance, the credit will be "rolled" forward to future months and used to offset future balances.

<u>Step 6: Periodic Recalculation and Adjustment of Annual Credit</u>

- PECO will recalculate Step 2 for each customer during a biennial certification and recalculation. At that time, each customer will be required to re-verify their income level and size of household.

- PECO will recalculate Steps 1,3,4 and 5 annually to determine a new Annual Credit for each customer. PECO currently intends to perform this recalculation on or near the anniversary of a customer's enrollment in the FCO, but retains the right to spread the recalculation event across the full calendar year for work management purposes.

- Every three months, PECO will recalculate Step 1 using the customer's most recent three months' data on usage/charges. PECO will then use the results of the Step 1 recalculation as inputs to complete Steps 2 through 5 to determine a Quarterly Recalculation of the Annual Credit. The adjusted Annual Credit will be applied to bills on a going-forward basis. This quarterly recalculation will be coordinated with the results of PECO's quarterly Generation Services Adjustment filing and approval so that, in each such quarterly adjustment, PECO's just-approved PTC will replace the oldest three months of PTC data in the underlying calculation.

- At any time during the year, a customer may verify to PECO that their household income or size of household has changed. Upon completion of that verification, if the changes result in a change in FPL tier, then PECO will recalculate Steps 1 through 5 to determine and apply a new Annual Credit for that household. The new Annual Credit will be applied prospectively beginning with the next monthly bill after the recalculation is completed and processed through PECO's billing system.

- At any time during the year, a customer may verify to PECO that a member of their household has increased usage as a result of medical reasons documented by a medical professional and that such increased, medically-driven usage is expected to be a part of that customer's long-term (more than 12 months) usage pattern. PECO will verify, through field visits or otherwise, that the increased usage is expected to be long-term. Upon such verification, PECO will increase the customer's Annual Credit by an amount equal to the estimated charges for increased usage as a result of medical equipment for the remainder of that quarter, provided however that the Annual Credit cannot exceed the maximum Annual Credit specified above in Step 4.

- Base rate case adjustments:

    - If PECO is granted an electric base rate increase, the portion of each Rate R customer's Annual Credit that is attributable to distribution rates will be increased by a percentage equal to the system-wide residential distribution rate increase .

    - If PECO is granted an electric base rate increase, the portion of each Rate RH customer's Annual Credit that is attributable to distribution rates will be increased by a percentage equal to the system-wide RH distribution rate increase.

    - If PECO is granted a gas base rate increase, the portion of each Rate R customer's Annual Credit that is attributable to distribution rates will be increased by a percentage equal to the system-wide residential gas distribution rate increase.

<u>Step 7: New entrants to CAP program after program begins</u>

- Customers who enter CAP after the FCO program begins will be required to verify income and household size. PECO will then apply Steps 1 through 6 to the new CAP participant.

2. Customers Who Do Not Receive An Annual Credit

- In the FCO, it is possible for a customer to be income-eligible for CAP (defined as having income of less than 150% of the Federal Poverty Level), but nonetheless receive a $0 credit.

- Phase-Out Benefit: PECO estimates that, under the FCO approach, approximately 40,000 households that receive rate discounts under PECO's current program will not receive discounts under the FCO. PECO will identify the individuals in that category as of the October 2016 FCO implementation date and, for that population, will provide a Phase-Out Benefit of $50 per household. The Phase-Out Benefit will be provided as a monthly bill credit of $4.17 for each month the household continues to take service, up to a maximum of 12 consecutive months

- Other Benefits: Any customer who is verified to be eligible for CAP, but who does not receive an Annual Credit, will nonetheless be eligible for any other benefits that may be available to CAP customers including, but not limited to, PPA forgiveness, LIURP priority, etc., according to the terms of those program components.

3. Cost Containment

- Minimum monthly billing amounts: The Commission's CAP Guidelines, 52 Pa. Code §69.265(3)(i), state that CAP participant payments should be at least:

  Rate R: $12 per month

  Rate RH: $30 per month

  Gas Heat: $25 per month

  Each monthly bill rendered under this program will have an asked-to-pay amount equal or greater to these monthly minimums, even if a rolling credit creates an overall credit or owed amount of less than the applicable minimum ($12, $25 or $30).

- Maximum Annual Credits: The maximum Annual Credits set forth in Table 2 of this settlement exceed the maximum annual credits set forth in the Commission's guidelines at 52 Pa. Code § 69.265(3)(v). However, the Commission has previously granted PECO permission to apply those maximum annual credits on a system-wide average, rather than as an individual customer limit. This settlement continues that practice.

As of December 31, 2014, the inflation-adjusted maximum Annual Credit for Rate R is $686.83 per customer, and the inflation-adjusted maximum credit for Rate RH is $1,766.13. PECO's CAP population is approximately 127,000 Rate R customers and approximately 13,000 Rate RH customers. Applied on a system-wide basis, the current limit on electric CAP program costs[13] is:

	Maximum Per Customer	Number of Customers	Systemwide Limit
Rate R	$686.83	127,000	$87.2 m
Rate RH	$1,766.13	14,000	$23 m
Max Total Program Cost			$110.2 m

4. Cost Recovery

- "Shortfall" cost recovery: The total amount of credits to customers is known as the "shortfall" amount. The shortfall amount is recovered through PECO's Universal Services Fund Charge ("USFC"). At present, USFC cost recovery includes a reduction of 22% for presumed reduction in PECO's uncollectible expense, and 5% for presumed improvement in PECO's cash working capital. Recovery of shortfall amounts, including the Phase-Out Benefit, shall continue on that same basis; provided, however, that the signatories reserve the right to challenge the appropriateness of the 22% and 5% offsets in any PECO base rate case.

- IT cost recovery: PECO estimates that it will incur $7-11 million in IT transition costs to implement the FCO system. PECO shall not be required to move forward with the FCO program until it is satisfied that the Commission has approved or will approve recovery of its IT transition costs. The parties agree that PECO, in its discretion, may request that a maximum of $11 million in IT transition costs be treated as a regulatory asset and deferred for accounting and financial reporting purposes subject to the following conditions:
  A. That authorization for deferred accounting treatment is not an assurance that there will be future rate recovery;
  B. That PECO claim the deferred costs at the first available opportunity in a base rate case;

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[13] The maximum total program cost changes with inflation and number of CAP participants.

C. That PECO be directed to commence amortization on a reasonable schedule beginning with the IT in-service date;

D. That any authorization for deferred accounting be limited to the IT expense and not extend to capital costs; and

E. That any order will not limit any party in its ability to contest rate recovery of the deferred costs.

5. External review of FCO program:

Expert external evaluation of the new FCO program will require two full calendar years of operational data, plus a six-month period for data analysis and evaluation. With a nominal start date of October 2016, this timeline will require until December 2018 for operational data collection, and until June 30, 2019 to complete data analysis and evaluation. PECO's periodic six-year evaluation is currently required to be filed with the Commission on October 1, 2018. As part of its filing, PECO will therefore request that its six-year evaluation be rescheduled for filing on June 30, 2019. The evaluator's report will be provided to the Commission and to each member of PECO's USECP Advisory Committee and the signatories to this agreement at that time.

B. <u>Arrearage Forgiveness</u>

1. In a separate petition or in its next base rate case, in either case, to be filed on or before the first calendar quarter of 2016 to permit PUC review to occur before FCO program implementation in October 2016, PECO will propose an in-program arrearage forgiveness program with the following core provisions:

- For each customer who is a CAP participant when PECO transitions to the FCO program in October 2016, PECO will determine the amount, if any, of that customer's IPA balance (the "Initial IPA Balance"). PECO will enter into a 60-month payment arrangement for an amount equal to 1/3rd of that customer's Initial IPA Balance (the "Payment Arrangement Amount").

- For each dollar of the customer's Initial IPA Balance that the customer pays via its payment arrangement or otherwise, the customer's Initial IPA balance will be reduced by an additional $2.00.

- A proposed cost recovery mechanism for the in-program arrearage forgiveness program. If the proposal is made in a base rate proceeding, PECO agrees that it will not seek recovery of more than 2/3 of the projected cumulative Initial IPA balance for the entire CAP population as of October 1, 2016 from CAP customers in arrears or other ratepayers. If the proposal is made in a proceeding other than a base rate proceeding, PECO may propose a cost recovery mechanism that has substantially similar financial effect. All other parties reserve all rights to address PECO's proposed IPA cost recovery mechanism when PECO makes its IPA arrearage forgiveness filing.

2. PECO will use its best efforts to obtain final PUC approval of the IPA forgiveness program and the core provisions described in paragraph 1.

3. PECO shall serve its petition on the signatories to this settlement and the Commission's Bureau of Investigation and Enforcement.

4. PECO shall not be required to proceed with the arrearage forgiveness program unless the cost recovery mechanism is approved by the Commission in substantially the form proposed by PECO or which PECO agrees to in subsequent settlement discussions with the parties to that proceeding.

5. If the proposed PECO's IPA forgiveness program obtains final Commission approval, including (a) the core arrearage forgiveness provisions described in paragraph 1 (or forgiveness provisions substantially as beneficial to CAP participants as the core provisions described in paragraph 1, as determined by TURN, Action Alliance and CAUSE-PA, in their discretion), and (b) cost recovery that meets the requirements of Paragraph 4 above, and such approval is obtained from the PUC prior to FCO program implementation, PECO will implement the approved arrearage forgiveness program at or before the implementation of the FCO program. If such approval is not obtained, then upon implementation of the FCO program in October 2016, PECO shall provide each CAP participant a 60-month payment agreement on their full Initial IPA Balance. Such 60-month payment agreement shall remain in effect: (a) until such time as final approval of PECO's IPA forgiveness program is obtained, or (b) in the event no such final approval is obtained, then for 60 months.

C. Usage reduction

1. Low-Income Usage Reduction Program ("LIURP"):

   PECO will make the following changes to its LIURP program:

   - Beginning October 2017, for a period of three years PECO will commit $1 million annually in additional funds to LIURP to reduce the energy burden of CAP customers whose bills exceed the Commission's energy burden guidelines. These funds are in addition to the $700,000 designated in this settlement to address de facto heating, but at PECO's discretion may be used for the de facto heating program if PECO determines that there is demand for additional de facto heating services and that such additional expenditures can be made within de facto heating program requirements.

- Prior to the implementation of the FCO program, PECO will identify CAP customers with extremely high use and benefits for highest priority LIURP treatment[14], including the de facto heating treatment described below.

- After the FCO program begins, PECO will identify those customers whose calculated Annual Credit exceeds the allowable maximum. Again, that list of customers will be given highest priority for LIURP treatment,[15] including the de facto heating treatment described below.
- Collectively, the groups of high users identified before and after the start of the FCO program are designated as the "De Facto Target Population".

2. De facto heating:

"De facto" heating refers to Rate R customers, whose residence is nominally heated by a source other than electricity, but where the customer is in-fact heating with electricity (usually space heaters) because the other-fuel heating is not available. This can be due to a broken gas or oil furnace; it can also be due to inability to pay gas or oil bills, resulting in termination of that service. As noted, in such situations the customer often heats their home using inefficient electric space heaters, driving their electric bills.

The stakeholders believe that use of LIURP funds to address certain de facto heating situations is an appropriate use of LIURP funds where: (1) the mitigation measure is repair or replacement of a broken heater or furnace (but not payment of a gas or oil bill to re-establish oil or gas service); and (2) the mitigation measure has a payback period that meets certain criteria set forth below.

- PECO will assess members of the De Facto Target Population for de facto heating mitigation. PECO may offer to implement de facto heating mitigation measures in any De Facto Target Population household in which:

  - The mitigation measure is repair or replacement of a broken gas or oil heater or furnace;
  - The residence does not have other structural issues that would make it inappropriate under LIURP to perform a heater or furnace repair; and

[14] Many of the noted customers were previously offered LIURP services, and have either received or rejected those services. However, at that time, the de facto heating pilot was not available. LIURP services that include the de facto heating pilot may be more successful in reducing usage at these residences.

[15] See prior footnote.

- The mitigation measure, on average, has a payback period of 15 years or less, or is less than the expected life of the new measure, as determined by data available to PECO at that time.[16]

- Beginning October 2017, for a period of three years PECO will increase its current annual electric LIURP budget by $700,000 per year for the purpose of implementing measures for the De Facto Target group.

- PECO may spend these de facto heating funds on any de facto heating measure in which the payback period for de facto heating measures up to the expected length of life of the new measure (furnace, etc.).

3. Act 129 Advocacy

- PECO will propose a budget addition to its low-income LEEP of $1 million annually to be used in its Act 129 Phase III program to target programs to address the needs of the portion of the CAP population that has income in the 0-50% FPL range and which has high usage. This proposal will be an addition to the budget designated for PECO's Act 129 LEEP, and the de facto heating mitigation budget, and will not be a reallocation of Act 129 low-income designated resources.

4. Overall Advocacy: The signatories agree that they will support PECO's additional low-income LIURP, de facto heating and Act 129 funding levels.

5. Collaborative

Within 90 days of final Commission approval of this settlement, PECO will convene a stakeholder collaborative to address the following issues:

i. Development of a detailed and comprehensive consumer education program regarding the CAP design changes and the effect of the changes on CAP participant benefits and obligations;

ii. Educational materials regarding the effect on CAP customers of shopping decisions and the interrelationship of price changes to the CAP bill. (This

[16] The Commission's regulations, 52 Pa. Code §58.11, provide that "space heating system replacement" measures should meet a 12-year payback period. In a 1996 audit of PECO's LIURP program, the auditors noted that: "As of December 4, 1995 the auditors have been instructed to use the 15 year payback criteria for recommending all allowable treatments that fall within this payback period.

collaborative agenda item will not be addressed until final resolution of the CAP shopping docket);

iii. Educational materials regarding the importance of LIURP and Act 129 measures.

iv. The intended audiences of these education programs will be: CAP participants, low-income customers who are not CAP participants, and social service and health agencies;

v. Determination of alternative languages for the translation of educational materials.

vi. Suggested measures to be pursued in the de facto heating program.

vii. For each of the above, cost recovery mechanisms for the program involved.

Agreed:

____
Romulo L. Diaz, Jr. Vice-President and General Counsel
Ward L. Smith, Assistant General Counsel
For PECO Energy Company

3/5/15
Date

Christy M. Appleby
For The Office of Consumer Advocate

3/12/15
Date

____
Date

For TURN et al.

____
Date

For CAUSE-PA

collaborative agenda item will not be addressed until final resolution of the CAP shopping docket);

iii. Educational materials regarding the importance of LIURP and Act 129 measures.

iv. The intended audiences of these education programs will be: CAP participants, low-income customers who are not CAP participants, and social service and health agencies;

v. Determination of alternative languages for the translation of educational materials.

vi. Suggested measures to be pursued in the de facto heating program.

vii. For each of the above, cost recovery mechanisms for the program involved.

Agreed:

______________________________ ______________
Romulo L. Diaz, Jr. Vice-President and General Counsel Date
Ward L. Smith, Assistant General Counsel
For PECO Energy Company

______________________________ ______________
Date

For The Office of Consumer Advocate

3/12/15
Thu B. Tran, Supervising Attorney, Energy Unit Date
Community Legal Services, Inc.
For TURN et al.

______________________________ ______________
Date

For CAUSE-PA

collaborative agenda item will not be addressed until final resolution of the CAP shopping docket);

iii. Educational materials regarding the importance of LIURP and Act 129 measures.

iv. The intended audiences of these education programs will be: CAP participants, low-income customers who are not CAP participants, and social service and health agencies;

v. Determination of alternative languages for the translation of educational materials.

vi. Suggested measures to be pursued in the de facto heating program.

vii. For each of the above, cost recovery mechanisms for the program involved.

Agreed:

______________________________ ______________
Romulo L. Diaz, Jr. Vice-President and General Counsel
Ward L. Smith, Assistant General Counsel
For PECO Energy Company
Date

______________________________ ______________
Date

For The Office of Consumer Advocate

______________________________ ______________
Date

For TURN et al.

Harry S. Geller 3/12/15
Date

For CAUSE-PA

Exhibit B:

Joint Petition for Settlement

Direct Dial: 215.841.6863

March 20, 2015

Rosemary Chiavetta, Secretary
Pa. Public Utility Commission
Commonwealth Keystone Building
400 North Street, Second Floor - West
Harrisburg, PA 17120

RE: PECO Energy Company Universal Service and Energy Conservation Plan for 2013-2015
PUC Docket No.: M-2012-2290911

Dear Ms. Chiavetta:

Enclosed for filing with the Commission is ***PECO Energy Company's Joint Petition for Settlement*** with regard to the matter referenced above.

I have enclosed a Certificate of Service showing that a copy of the above document was served on the interested parties. Thank you for your time and attention on this matter.

Very truly yours,

Ward L Smith

Ward L. Smith
Counsel for PECO Energy Company

cc: Certificate of Service

WS/lo

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PECO Energy Company	:	
Universal Service and Energy	:	
Conservation Plan for 2013-2015	:	**Docket No. M-2012-2290911**
Submitted in Compliance with 52 Pa.	:	
Code §§ 54.74 and 62.4	:	

JOINT PETITION FOR SETTLEMENT

This Joint Petition for Settlement ("Joint Petition") is submitted by the following parties in the above-captioned proceeding: PECO Energy Company ("PECO"), the Office of Consumer Advocate (the "OCA"), the Tenant Union Representative Network and Action Alliance of Senior Citizens of Greater Philadelphia (together, "TURN *et al.*"), and the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania ("CAUSE-PA") (collectively, the "Joint Petitioners.")

The terms and conditions of the proposed settlement in this matter are set forth in the PECO CAP Mediation Settlement Term Sheet ("Term Sheet"), which is attached as Exhibit A. The Term Sheet is a comprehensive settlement among the aforementioned parties that resolves all issues pertaining to the above-captioned docket. The Joint Petitioners aver that this comprehensive settlement is in the public interest and, therefore, request that the Commission approve the settlement in its entirety.

Each of the Joint Petitioners will separately submit a Statement in Support of this Joint Petition. The Joint Petitioners provide the following background regarding this Joint Petition:

1. The Term Sheet sets forth a comprehensive proposal to revise PECO's Customer Assistance Program ("CAP") and certain other programs that provide assistance to PECO's low-income customers.
2. Pursuant to the Commission's regulations, 52 Pa. Code §54.71 *et seq.*, every three years Pennsylvania electric distribution companies are required to file with the Commission their "universal service and energy conservation plans." This docket initially involved PECO's universal service and energy conservation plan covering the three-year period 2013-15 (the "2013-15 Plan") which PECO filed in this docket on February 28, 2012.
3. On November 8, 2012, the Commission issued a Tentative Order inviting written comments on the 2013-15 Plan. Written comments were filed by the Joint Petitioners and other parties, and the matter was subsequently set for litigation. During that litigation, the litigants discussed, but were not able to reach agreement regarding, a CAP design know as the "Fixed Credit Option," or "FCO."
4. On April 4, 2013, the Commission issued an Order in which it required PECO to make certain changes to its 2013-2015 Plan. The Commission's Order also directed PECO to conduct a study of the FCO, and other possible CAP design alternatives, for potential use by PECO in its three-year plan covering the period 2016-2018.
5. PECO filed the required report on September 20, 2013. In that report, PECO recommended that it stay with its existing CAP design, and not move to the FCO or other alternative design. The Joint Petitioners filed comments and reply comments on that report.
6. On April 25, 2014, the Commission issued a Secretarial Letter in which it directed the parties to this docket to attempt again to reach agreement on a new CAP design that all stakeholders could support. The Secretarial Letter recommended that the parties utilize the

Commission's mediation services, and stated that if negotiated resolution could not be obtained, the matter would be sent again to litigation.

7. The Joint Petitioners engaged the services of the Commission's mediation office, and conducted extensive mediation sessions. At least eight half-or full day sessions over the next several months, with extensive exchange of data and other information between the Joint Petitioners.
8. As a result of that extensive mediation effort and related settlement discussions, the Joint Petitioners reached agreement on a new CAP design and related issues, as set forth in the Term Sheet.
9. As stated previously, each of the Joint Petitioners will file a Statement in Support of this Joint Petition.

CONCLUSION

WHEREFORE, the Joint Petitioners, intending to be legally bound, respectfully request that the Commission approve this Joint Petition, including all terms and conditions set forth in the Term Sheet, and then terminate and mark closed the proceedings at Docket No. M-2012-2290911.

Respectfully submitted on March 20, 2015,

Ward L. Smith, Esq.
Counsel for PECO Energy Company
2301 Market Street
Philadelphia, PA 119103
ward.smith@exeloncorp.com
215-841-6863

Harry S. Geller, Esq.
Elizabeth R. Marx, Esq.
Counsel for CAUSE-PA
Pennsylvania Utility Law Project
118 Locust Street
Harrisburg, PA 17101
pulp@palegalaid.net
717-236-9486

Christy Appleby, Esq.
Amy Hirakis, Esq.
Candis Tunilo, Esq.
Office of Consumer Advocate
5th Floor, Forum Place
555 Walnut Street
Harrisburg, Pa. 17101-1923
cappleby@paoca.org
717-783-5048

Thu B. Tran, Esq.
Robert W. Ballenger, Esq.
Josie B. H. Pickens, Esq.
Counsel for TURN, et al.
Community Legal Services, Inc.
1424 Chestnut Street
Philadelphia, PA 19102
ttran@clsphila.org, rballenger@clsphila.org, jpickens@clsphila.org
215-981-3777

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215-981-3777

Exhibit C:

Addendum B to PECO's Universal Service and Energy Conservation Plan for 2016-2018

ADDENDUM B

CAP FCO Calculation;

Prior to October 2016, the 2013 – 2015 PECO 3-Year Plan Settlement will continue to govern CAP program activities. Post October 2016, the CAP FCO program activities will govern PECO's CAP. The FCO calculation is outlined below;

Fixed Credit Option (FCO) Calculation

A. FCO/CAP Design

1. Determination of Credits:

Beginning with PECO's October 2016 IT push, PECO will implement a new design for its Customer Assistance Program ("CAP"). The new CAP design will be based upon the Fixed Credit Option ("FCO"), with customer benefits calculated as follows:

Step 1: Determine customer's prior year's undiscounted charges:

- For each CAP customer, PECO will review the customer's bills at that residence for the prior 12 months and determine the dollar amount that the customer would have been charged *on an undiscounted basis* in those prior 12 months for their PECO-supplied utility service, including both the regulated and unregulated portions of that service (that is, including generation service, whether obtained from an EGS or PECO, and natural gas commodity service, whether obtained from an NGS or PECO) (the "Base Charge(s)").

- For regulated charges, the undiscounted charge will be calculated using the PECO tariff rates in effect for the time period being examined. For generation charges, the undiscounted charges will be calculated using PECO's generation price-to-compare ("PTC") for the time period being examined. For natural gas commodity charges, the undiscounted charges will be calculated using PECO's natural gas PTC for the time period being examined. (For the effect of base rate cases and quarterly GSA filings on determination of Base Charges, see Step 6 below.)

- Pro forma method of determining prior year's usage: If the customer does not have 12 months of prior service at their current residence at the time the above calculation is conducted, then PECO will create a pro forma profile to calculate that customer's trailing twelve months usage/charges. The pro forma profile will be based on the following, in order of preference if data is available:[1]

- Usage at that residence by the customer for the months available and actual usage by prior customers for the months unavailable.
- Usage at that residence by prior customers;
- Usage at similar residences or CAP residences in the same area; or
- System-wide usage or CAP usage averages.

- PECO will prepare a weather normalization table that compares the weather in each of the trailing twelve months to "normal" weather for that calendar month, and which gives an adjustment factor to normalize usage and charges for each month on a weather-adjusted basis. This chart will be updated each month so that, at any time, PECO has available adjustment factors for the trailing 12 months. Once PECO has determined the Base Charges, those charges will be weather-normalized using the weather normalization table to create the "Weather-Normalized Base Charges."

Step 2: Determine Verified Household Income and Federal Poverty Level:

- PECO's existing income verification procedures will be used to determine Verified Household Income. PECO will then use that information and the number of people in the household to determine the household's Federal Poverty Level[2].

Step 3: Determine customer's allowable Energy Burden:

- Once the household's Federal Poverty Level has been determined, PECO will determine the household's allowable Energy Burden, as follows:[3]

Table 1: Energy Burdens

[1] Because of the quarterly recalculations discussed in Step 6 below, these pro forma calculations will start to be replaced by data on the customer's actual usage three months after the pro forma calculation is done.
[2] A customer's Federal Poverty Level percentage will be determined by reference to the then-current version of the Federal Poverty Guidelines published by the Federal Department of Health and Human Services.
[3] The table is based upon the ranges found at 52 Pa. Code §69.265 (2)(i)(A). In each case, the energy burden listed in the table is the maximum allowable energy burden for that poverty level. If the Commission changes the energy burden ranges set forth in its Policy Statement, PECO will utilize the new maximum allowable energy burden for each poverty level.

FPL	Electric Non-Heating[4]	Electric Heating[5]	Electric with Gas Heating[6]
0-50%	5%	13%	13%
51-100%	6%	16%	16%
101-150%	7%	17%	17%

<u>Step 4: Calculate customer's Annual Credit</u>:

- PECO will determine the customer's Annual Credit by multiplying the Verified Household Income times that household's allowable Energy Burden to determine an Annual CAP Bill amount. The Annual CAP Bill will then be subtracted from the Weather-Normalized Base Charges; the resulting amount is the Annual Credit amount for that household. That is: Weather-Normalized Base Charges – Annual CAP Bill = Annual Credit.

The maximum Annual Credit for any household will be as follows:[7]

[4] Applies to PECO Rate R customers who use a non-PECO heating fuel source, including PGW, propane, and oil.

[5] Applies to PECO Rate RH customers.

[6] Applies to PECO dual commodity customers.

[7] The maximum Annual Credit was calculated to provide bills within Commission energy burden guidelines to approximately 93% of Rate R customers (including dual fuel customers), and approximately 96% of Rate RH customers. In addition, application of the Commission-required minimum monthly bills ($12 for Rate R; $30 for Rate RH) results in bills above Commission energy burden guidelines for approximately 6% of PECO's CAP customers overall. The combination of those two effects will result in 12% of PECO's Rate R, and 10% for PECO's Rate RH, with bills exceeding Commission energy burden guidelines, assuming a normal weather year.

The maximum Annual Credit levels set forth above will remain at these levels for four years after the program is implemented in October 2016. After four years, PECO will confer with the other signatories to determine whether there is a consensus new maximum Annual Credit level. If so, PECO will adopt that new level in its next-filed Three-Year Plan. If no consensus is reached, PECO may propose a new maximum Annual Credit level in its next-filed Three-Year Plan.

The maximum Annual Credits set forth in the table have been determined in an effort to reduce the number of CAP customers whose bills exceed commission energy burden guidelines. The Commission has previously granted PECO permission to apply maximum annual credits on a system-wide average, rather than as an individual customer limit. This settlement continues that practice. See also section A3 (Cost Containment) below.

Table 2: Maximum Annual Credits

FPL	Electric Non-Heating (Rate R)[8]	Electric Heating (Rate RH)[9]	Electric with Gas Heating (PECO Dual Commodity Customer)[10]
0-50%	$2,048	$2,922	Same as Rate R for electric service; no maximum for gas service[11]
51-100%	$1,389	$1,881	
101-150%	$1,241	$1,661	

(These are the credit limits for any given household. PECO will also continue to apply a system-wide cost containment mechanism in which the total cost of its program is limited to the number of participants in the program times the inflation-adjusted Maximum Annual Credit set forth set forth in the Commission's guidelines at 52 Pa. Code § 69.265(3)(v).)

Step 5: Apply Annual Credit to Bill:

PECO will apply the total dollar amount of the Annual Credit over the course of the year. The credits will be applied in a manner intended to track the seasonal nature of usage, using the following monthly percentage[12]:

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[8] If PECO is granted an electric base rate increase, the maximum allowable credits will be increased by a percentage equal to the system-wide residential distribution rate increase, applied to the portion of the Maximum Credit that is attributable to distribution rates.

[9] If PECO is granted an electric base rate increase, the maximum allowable credits will be increased by a percentage equal to the system-wide residential heating distribution rate increase, applied to the portion of the Maximum Credit that is attributable to distribution rates.

[10] If PECO is granted a gas base rate increase, the maximum allowable credits will be increased by a percentage equal to the system-wide residential distribution rate increase, applied to the portion of the Maximum Credit that is attributable to distribution rates.

[11] This continues PECO's current gas CAP program policy.

[12] PECO may adjust these percentages to reflect the most current data available to it at any given time. However, any such adjustments will affect only the distribution of the Annual Credit to bills, not the amount of the Annual Credit.

Table 3: Seasonality Distribution

Month	Rate R	Rate RH	Gas
Jan	9.6%	13.9%	20.6%
Feb	8.9%	14.2%	19.5%
Mar	8.9%	12.2%	14.5%
Apr	7.0%	9.0%	9.6%
May	5.8%	5.3%	4.5%
June	7.7%	5.2%	2.6%
July	11.3%	6.4%	2.0%
Aug	10.6%	5.9%	1.8%
Sept	9.3%	5.4%	2.0%
Oct	6.6%	4.5%	2.6%
Nov	6.6%	6.4%	6.9%
Dec	8.7%	11.7%	13.6%
Total	100.0%	100.0%	100.0%

- Credits will be applied on a "rolling" basis; that is, if the customer's credit in a month exceeds the outstanding balance, the credit will be "rolled" forward to future months and used to offset future balances.

Step 6: Periodic Recalculation and Adjustment of Annual Credit

- PECO will recalculate Step 2 for each customer during a biennial certification and recalculation. At that time, each customer will be required to re-verify their income level and size of household.

- PECO will recalculate Steps 1, 3, 4 and 5 annually to determine a new Annual Credit for each customer. PECO will perform this recalculation on or near the anniversary of a customer's enrollment in the FCO, but retains the right to spread the recalculation event across the full calendar year for work management purposes.

- Every three months, PECO will recalculate Step 1 using the customer's most recent three months' data on usage/charges. PECO will then use the results of the Step 1 recalculation as inputs to complete Steps 2 through 5 to determine a Quarterly Recalculation of the Annual Credit. The adjusted Annual Credit will be applied to bills on a going-forward basis. This quarterly recalculation will be coordinated with the results of PECO's quarterly Generation Services Adjustment filing and approval so that, in each such quarterly adjustment, PECO's just-approved PTC will replace the oldest three months of PTC data in the underlying calculation.

- At any time during the year, a customer may verify to PECO that their household income or size of household has changed. Upon completion of that verification, if the changes result in a change in FPL tier, then PECO will recalculate Steps 1 through 5 to determine and apply a new Annual Credit for that household. The new Annual Credit will be applied prospectively beginning with the next monthly bill after the recalculation is completed and processed through PECO's billing system.

- At any time during the year, a customer may verify to PECO that a member of their household has increased usage as a result of medical reasons documented by a medical professional and that such increased, medically-driven usage is expected to be a part of that customer's long-term (more than 12 months) usage pattern. PECO will verify, through field visits or otherwise, that the increased usage is expected to be long-term. Upon such verification, PECO will increase the customer's Annual Credit by an amount equal to the estimated charges for increased usage as a result of medical equipment for the remainder of that quarter, provided however that the Annual Credit cannot exceed the maximum Annual Credit specified above in Step 4.

Step 7: New entrants to CAP program after program begins

- Customers who enter CAP after the FCO program begins will be required to verify income and household size. PECO will then apply Steps 1 through 6 to the new CAP participant.

2. Customers Who Do Not Receive An Annual Credit

- In the FCO, it is possible for a customer to be income-eligible for CAP (defined as having income of less than 150% of the Federal Poverty Level), but nonetheless receive a $0 credit.

- Phase-Out Benefit: PECO estimates that, under the FCO approach, approximately 40,000 households that receive rate discounts under PECO's current program will not receive discounts under the FCO. PECO will identify the individuals in that category as of the October 2016 FCO implementation date and, for that population, will provide a Phase-Out Benefit of $50 per household. The Phase-Out Benefit will be provided as a monthly bill credit of $4.17 for each month the household continues to take service, up to a maximum of 12 consecutive months

- Other Benefits: Any customer who is verified to be eligible for CAP, but who does not receive an Annual Credit, will nonetheless be eligible for any other benefits that may be available to CAP customers including, but not limited to, PPA forgiveness, LIURP priority, etc., according to the terms of those program components.

3. Cost Containment

    - Minimum monthly billing amounts: The Commission's CAP Guidelines, 52 Pa. Code §69.265(3)(i), state that CAP participant payments should be at least:
      Rate R: $12 per month
      Rate RH: $30 per month
      Gas Heat: $25 per month

    - Each monthly bill rendered under this program will have an asked-to-pay amount equal or greater to these monthly minimums, even if a rolling credit creates an overall credit or owed amount of less than the applicable minimum ($12, $25 or $30).

    - Maximum Annual Credits: The maximum Annual Credits set forth in Table 2 of this settlement exceed the maximum annual credits set forth in the Commission's guidelines at 52 Pa. Code § 69.265(3)(v). However, the Commission has previously granted PECO permission to apply those maximum annual credits on a system-wide average, rather than as an individual customer limit. This practice will continue.