BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PETITION OF PECO ENERGY COMPANY FOR APPROVAL OF ITS ACT 129 PHASE III ENERGY EFFICIENCY AND CONSERVATION PLAN	: : : : :	**DOCKET NO. M-2015-2515691**

PETITION OF PECO ENERGY COMPANY FOR APPROVAL OF MINOR CHANGES TO ITS PHASE III EE&C PLAN PURSUANT TO THE COMMISSION'S EXPEDITED REVIEW PROCESS

I. INTRODUCTION

PECO Energy Company ("PECO" or the "Company") hereby petitions the Pennsylvania Public Utility Commission (the "Commission") for approval of minor changes to the Company's Phase III Energy Efficiency and Conservation Plan ("Phase III Plan" or "Plan"). PECO is filing this Petition pursuant to the Commission's expedited review process, which was first established in the *Minor Plan Change Order*[1] and later refined in the Implementation Orders for Phase II[2] and Phase III[3] of the Act 129 Energy Efficiency & Conservation Program.

PECO has analyzed the performance of its Residential Demand Response Program ("Residential DR Program"), including Program expenditures, through October 31, 2019 and projected the funding necessary to continue the Program through the end of the Company's Phase III Plan. Based on this analysis, which assumes continued enrollment of nearly 20,000

[1] *Energy Efficiency and Conservation Program*, Docket No. M-2008-2069887 (Order entered June 10, 2011).

[2] *Energy Efficiency and Conservation Program*, Docket No. M-2012-2289411 (Order entered August 3, 2014) ("*Phase II Implementation Order*").

[3] *Energy Efficiency and Conservation Program*, Docket No. M-2014-2424864 (Order entered June 19, 2015) ("*Phase III Implementation Order*").

more residential participating units[4] than originally projected, PECO has determined that the Residential DR Program requires an additional $6.4 million in funding. The Company proposes to transfer the necessary funds from the Phase III Plan's $10 million research and development ("R&D") budget allocated to the residential customer class, without any increase in the overall cost to residential customers. PECO respectfully submits that this transfer of funds within the residential customer class is consistent with the Commission's definition of "minor changes." PECO also submits that the transfer of funds is in the public interest and should, therefore, be approved.

II. THE MINOR PLAN CHANGE ORDER

1. The *Minor Plan Change Order* delegates the Commission's authority to review and approve minor energy efficiency and conservation ("EE&C") plan changes to Commission staff.[5]

2. In the *Phase III Implementation Order*, the Commission defined minor changes as follows:

> 1. The elimination of a measure that is underperforming; is no longer viable for reasons of cost-effectiveness, savings or market penetration; or has met its approved budgeted funding, participation level or amount of savings;
>
> 2. The transfer of funds from one measure or program to another measure or program within the same customer class;
>
> 3. Adding a measure or changing the conditions of a measure, such as is eligibility requirements, technical description, rebate

[4] A residential participating unit is a central air conditioning unit that a residential customer enrolls in the Company's DR program (called the Smart AC Saver Program). A customer may have more than one residential participating unit.

[5] *Minor Plan Change Order*, p. 18.

> structure or amount, projected savings, estimated incremental costs, projected number of participants or other conditions so long as the change does not increase the overall costs to that customer class;
>
> 4. A change in vendors for existing programs that will continue into Phase II; and
>
> 5. The elimination of programs which are not viable due to market conditions.[6]

3. An electric distribution company ("EDC") must file sufficient documentation to support a proposed minor EE&C Plan change, including the affected pages of the plan, a redlined version of the affected pages and an explanation of how the proposed minor changes affect the previously approved plan. In addition, an EDC must post a complete redlined version of its plan on its website that reflects the proposed plan changes for public inspection upon filing.[7]

4. Commission staff is directed to issue a Secretarial Letter approving, denying, or transferring to the Office of Administrative Law Judge, some or all of the proposed minor changes within 35 days after the changes are filed with the Secretary.[8]

III. BACKGROUND

5. PECO is a corporation organized and existing under the laws of the Commonwealth of Pennsylvania with its principal office in Philadelphia, Pennsylvania. PECO provides electric delivery service to approximately 1.6 million customers and natural gas delivery service to more than 511,000 customers in Pennsylvania.

---

[6] *Phase III Implementation Order*, p. 116 (citing the *Phase II Implementation Order*, p. 91).

[7] *Minor Plan Change Order*, p. 19.

[8] *Id.*

6. On October 15, 2008, then Governor Edward G. Rendell signed into law Act 129, which, among other things, added Section 2806.1 to the Pennsylvania Public Utility Code. The applicable provisions of Act 129 required Pennsylvania EDCs to file EE&C plans by July 1, 2009 containing the plan elements specified in Section 2806.1(b) ("Phase I EE&C Program").[9] 66 Pa.C.S. § 2806.1(b). An EDC's plan had to pass a "total resource cost" or "TRC" test to determine whether the avoided cost of supplying electricity is greater than the cost of a plan's energy efficiency and conservation measures. 66 Pa.C.S. § 2806.1(b)(1)(i)(I); *2016 Total Resource Cost (TRC) Test*, Docket No. M-2015-2468992 (Order entered June 22, 2015). Additionally, Sections 2806.1(c) and (d) required that EDCs' Phase I EE&C plans be designed: (1) to reduce retail energy consumption by a minimum of 1% by May 31, 2011 and a minimum of 3% by May 31, 2013; and (2) to reduce peak demand, measured by reference to the 100 highest hours of demand, by a minimum of 4.5% no later than May 31, 2013. 66 Pa.C.S. § 2806.1(c) and (d).

7. In compliance with Section 2806.1 and the Commission's Order entered January 15, 2009 at Docket No. M-2008-2069887, implementing that section, PECO prepared and submitted its EE&C plan for the Phase I EE&C Program on July 1, 2009. The Commission subsequently approved PECO's Phase I Plan, with modifications, on October 28, 2009.[10] The Phase I Plan included, among other things, a direct load control ("DLC") program called the Smart AC Saver Program ("AC Saver Program"). Participants in the AC Saver Program receive

[9] 66 Pa.C.S. § 2806.1(l) exempts EDCs with fewer than 100,000 customers from this requirement.

[10] *Petition of PECO Energy Company for Approval of its Act 129 Energy Efficiency and Conservation Plan and Expedited Approval of its Compact Fluorescent Lamp Program*, Docket No. M-2009-2093215 (Order entered October 28, 2009).

a bill credit in exchange for allowing PECO to remotely cycle or shut down a customer's central air conditioning unit on short notice during DR events in the months of June through September.

8. Act 129 further required the Commission, by November 30, 2013, to evaluate the costs and benefits of the Phase I EE&C Program. If the benefits of the Program were found to exceed its costs, the Commission was directed to adopt "additional required incremental reductions in consumption" and "additional incremental requirements for reduction in peak demand." 66 Pa.C.S. §§ 2806.1(c)(3) and (d)(2).

9. On August 3, 2012, the Commission entered its *Phase II Implementation Order,* adopting EDC-specific targets for reducing energy consumption for the next EE&C Program term (June 1, 2013-May 31, 2016).[11] The Commission did not establish any Phase II peak demand reduction ("DR") requirement in its August 3, 2012 Order because, at that time, it did not have enough information to determine the cost-effectiveness of the Phase I DR programs. The Commission did, however, allow EDCs to voluntarily offer cost-effective DR programs during Phase II.[12]

10. Consistent with the *Phase II Implementation Order*, PECO submitted a Phase II Plan that was approved by the Commission on February 28, 2013. Thereafter, a voluntary DR program was added to the Phase II Plan on May 9, 2013.[13] The voluntary DR program was a continuation of the AC Saver Program from the Company's Phase I Plan.

---

[11] *Phase II Implementation Order*, pp. 23-24.

[12] *Id.* at 33, 42.

[13] *See Petition of PECO Energy Company for Approval of its Act 129 Phase II Energy Efficiency and Conservation Plan*, Docket No. M-2012-2333992.

11. In its *Phase III Implementation Order*, the Commission established both consumption reduction and DR targets for the five-year plan period June 1, 2016 through May 31, 2021. For PECO, the consumption reduction target is 1,962,659 MWh (5.0% of the 2009/2010 forecast baseline) over the five-year term of the Phase III Plan.[14] PECO's DR target for the four-year period June 1, 2017 through May 31, 2021 is an average annual potential savings of 161 MW.[15]

12. Consistent with the *Phase III Implementation Order*, PECO submitted a Phase III Plan that was approved by the Commission on May 19, 2016.[16]

IV. PROPOSED MINOR CHANGES TO PECO'S PHASE III PLAN

A. The Need For Additional Funding Of The Residential DR Program

13. PECO's Phase III Plan contains three DR programs: Residential, Small C&I, and Large C&I. The Residential DR Program[17] includes a continuation of the AC Saver Program offered by the Company in Phase I and Phase II.[18]

---

[14] *Phase III Implementation Order*, p. 57.

[15] EDCs are not required to obtain peak demand reductions in the first program year (PY 2016) of Phase III. *Phase III Implementation Order*, p. 35.

[16] *See Petition of PECO Energy Company for Approval of its Act 129 Phase III Energy Efficiency and Conservation Plan*, Docket No. M-2015-2515691 (Order entered May 19, 2016).

[17] The Phase III Plan identifies three solutions within the Residential DR Program: Residential Direct Load Control (the AC Saver Program), Smart Thermostat DR and Behavioral DR. Although the Company has only implemented the AC Saver Program thus far in Phase III, PECO is retaining all three solutions in the Plan to preserve DR programming flexibility for the remainder of Phase III.

[18] PECO also offers an AC Saver Program as part of the Company's Small C&I DR Program. This Petition addresses the residential AC Saver Program only.

14. The Company's total budget for the Residential DR Program is $13.7 million and PECO is authorized to offer each residential participating unit in the AC Saver Program up to $120 per year (or $30 per month).[19]

15. PECO selected a Phase III incentive level of $40 per year (or $10 per month) for the AC Saver Program, which was a reduction from the Phase II incentive level of $80 per year (or $20 per month).

16. The Company anticipated that the lower Phase III incentive would reduce the level of customer participation in the AC Saver Program. Although the Program has experienced some annual customer attrition since the beginning of the Phase III Plan, the 2019 enrollment of approximately 62,000 residential participating units remains well above the estimate of approximately 44,000 residential participating units used when developing the Phase III Plan.

17. The average performance of the AC Saver Program during Phase III DR events through Program Year 11 (2019) was approximately 30 MW,[20] which equates to about 19% of the Company's overall 161 MW DR target. Although performance has been below the estimates in the Phase III Plan,[21] the Program's contribution to meeting the overall DR target has been sufficient when combined with the performance of the Small C&I and Large C&I DR Programs and remains necessary for PECO to meet its overall DR target.

18. While PECO was able to pay the $40 per year incentive for each residential participating unit and remain within its overall budget for the first three years of the program, the

[19] Phase III Plan, p. 81 (overall budget) and p. 204 (incentive range).

[20] This average is based on verified and reported performance data for Program Year 9 (2017) and 10 (2018) as well as preliminary estimated performance data for Program Year 11 (2019).

[21] *See* Phase III Plan, p. 86.

continuing customer participation above projected levels resulted in PECO exceeding its total approved budget for the Residential DR Program in 2019 (including both incentive and non-incentive direct program costs) by $1.7 million.[22]

19. PECO projects that it will require an additional $4.7 million to continue the AC Saver Program until the end of Phase III using the current incentive amount, the Company's forecast of approximately 62,000 residential participating units in 2020[23], and estimated ongoing non-incentive direct program costs.

20. Overall, the Residential DR Program budget requires an additional $6.4 million to address the $1.7 million 2019 budget shortfall and projected costs of $4.7 million for the remainder of the Phase III Plan.

21. The $6.4 million addition reflects approximately $5.6 million in customer incentives ($3.1 million of which was paid to customers in prior program years), $400,000 in non-incentive direct program costs (PECO and conservation service provider labor), and an unexpected cost contingency of $400,000. With this addition, the new total Residential DR Program budget for the Phase III Program would be $20.1 million.

[22] PECO notes it has not offset this amount with $461,376 in net proceeds from bidding AC Saver Program resources into the PJM market in accordance with PECO's Phase III Plan. Those proceeds have been returned directly to residential customers through PECO's Energy Efficiency and Conservation Program Costs ("EEPC") surcharge. The net amount does include some unanticipated AC Saver Program expenses, including additional investment in a new data platform to address data quality issues during PECO's 2017 DR performance period.

[23] To develop the forecast, the Company conservatively assumed there would be no customer attrition from 2019 to 2020.

B. The Transfer Of Funds From The Residential R&D Budget To The Residential DR Program Budget

22. PECO is proposing to transfer $6.4 million from the residential R&D budget to the Residential DR program. The residential R&D budget is $10 million[24] and the Company has spent approximately $500,000 of that budget to date.

23. Because the funding transfer is based upon a greater than anticipated level of customer participation and is entirely within the residential customer class, it is consistent with two of the Commission's criteria in the *Minor Plan Change Order*: "The transfer of funds from one measure or program to another measure or program within the same customer class." and "[A]dding or changing the conditions of a measure, such as . . . projected number of participants or other conditions so long as the change does not increase the overall costs to that customer class."[25]

24. The proposed Phase III Plan changes to accomplish this transfer are displayed in the following two exhibits which are appended to this Petition:

> **Exhibit 1 –** Portions of the Phase III Plan that have been revised to accomplish the proposed minor change.
>
> **Exhibit 2 –** Redlined portions of Phase III Plan displaying the revisions to accomplish the proposed minor change.[26]

25. As shown in the exhibits, the Residential DR Program will remain cost effective after the proposed funding transfer, but its TRC value will decline from 1.7 to 1.2.[27] The

---

[24] Phase III Plan, p. 127.

[25] *Phase III Implementation Order*, p. 116.

[26] Exhibit 1 and 2 include a revised Exhibit RAS-2 because that exhibit is part of Appendix F of the Phase III Plan.

[27] *See, e.g.*, Exhibit 2, p. 15, Table 2.

Company's entire Phase III portfolio of programs also remains cost-effective, with no change to its TRC value of 1.3.[28]

26. PECO does not anticipate detrimental impacts to its residential portfolio of programs as a result of moving funds out of the residential R&D budget. As explained in the Phase III Plan, R&D funds are for market research in response to emerging technologies and market transformations.[29] The Company may decide to integrate an emerging technology or other market transformation into an existing program to remedy program challenges or enhance program performance.

27. The Company's residential energy efficiency portfolio has already demonstrated strong performance as currently designed and shown in PECO's Phase III Final Annual EE&C Report for Program Year 10 (June 1, 2018 through May 31, 2019).

28. In light of the performance of the residential energy efficiency portfolio, the Company has a lesser need for R&D funding than it might under different circumstances. And, as explained in Section IV.A. *supra*, additional funding for the Residential DR Program is critical to facilitate compliance with PECO's 161 MW DR target.

V. NOTICE

29. PECO is serving copies of this filing on the Office of Consumer Advocate ("OCA"), the Office of Small Business Advocate ("OSBA"), the Commission's Bureau of Investigation and Enforcement, and all parties to the Company's Phase III EE&C Plan proceeding. The Company has also engaged in informal discussions with key stakeholders about

[28] Exhibit 2, p. 132, Table C-5.

[29] Phase III Plan, p. 106 & 123.

the filing, including OCA, OSBA, the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania, the Philadelphia Area Industrial Energy Users Group and the Keystone Energy Efficiency Alliance.

30. In addition, consistent with the *Minor Change Filing Order*, the Company will post a complete redlined version of its revised EE&C Plan on the Company's website (https://www.peco.com/MyAccount/MyBillUsage/Pages/Filings.aspx).

VI. CONCLUSION

Based upon the foregoing, including the attached exhibits, PECO respectfully requests that Commission staff grant this Petition and enter a Secretarial Letter approving the Company's proposed minor EE&C Plan changes.

Respectfully submitted,

Jack R. Garfinkle (cv)

Anthony E. Gay (Pa. No. 74624)
Jack R. Garfinkle (Pa. No. 81892)
PECO Energy Company
2301 Market Street
P.O. Box 8699
Philadelphia, PA 19101-8699
Phone: 215.841.4608
Fax: 215.568.3389
anthony.gay@exeloncorp.com
jack.garfinkle@exeloncorp.com

Kenneth M. Kulak (Pa. No.
Catherine G. Vasudevan (Pa. No. 210254)
Morgan, Lewis & Bockius LLP
1701 Market Street
Philadelphia, PA 19103-2921
Phone: 215.963.5952
Fax: 215.963.5001
ken.kulak@morganlewis.com
catherine.vasudevan@morganlewis.com

Counsel for PECO Energy Company

December 17, 2019

VERIFICATION

I, Doreen Masalta, hereby declare that I am the Director of Energy and Marketing Services for PECO Energy Company; that, as such, I am authorized to make this verification on its behalf; that the facts set forth in the foregoing Petition are true and correct to the best of my knowledge, information and belief; and that I make this verification subject to the penalties of 18 Pa.C.S. § 4904 pertaining to false statements to authorities.

Date: 12/17/19

Doreen Masalta