Exelon Business Services Company

Legal Department

Exelon Business Services Company
2301 Market Street/S23-1
P.O. Box 8699
Philadelphia, PA 19101-8699

Telephone 215.841.4000
Fax 215.568.3389
www.exeloncorp.com

Direct Dial: 215.841.5974

June 3, 2011

Via E-Filing

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, Second Floor
Harrisburg, PA 17120

Re: Investigation of Pennsylvania's Retail Electricity Market
Docket No. I-2011-2237952

Dear Secretary Chiavetta:

Enclosed for filing are the Comments of Exelon to the April 29, 2011 Investigation Order in the above-captioned proceeding.

Copies have been served as indicated on the attached Certificate of Service.

Very truly yours,

Jeanne Dworetzky

Jeanne J. Dworetzky
Counsel for PECO Energy Company,
Exelon Generation Company
Exelon Energy Company and

JJD/adz
Enc.

Cc: Office of the Competitive Market Oversight (ra-OCMO@state.pa.us)

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

INVESTIGATION OF PENNSYLVANIA'S RETAIL ELECTRICITY MARKET	:	**DOCKET NO. I-2011-2237952**

COMMENTS OF EXELON TO THE APRIL 29, 2011 INVESTIGATION ORDER

INTRODUCTION

Exelon Generation Company, Exelon Energy Company, and PECO Energy Company (collectively "Exelon" or the "Company") hereby submit these Comments in response to the Pennsylvania Public Utility Commission's ("Commission") April 29, 2011 Order initiating the Investigation of Pennsylvania's Retail Electricity Market in the above-captioned docket (the "Order"). Exelon appreciates the opportunity to comment on the important issues raised by the Order. Section I of these Comments provides background information on competition in Pennsylvania. Section II sets forth Exelon's perspective on the status of Pennsylvania's retail electricity market today and the role of Electric Distribution Companies ("EDC") in the default service model. Section III provides responses to the specific questions posed by the Commission in the Order.

Exelon is a staunch advocate of competitive electricity markets, both at the wholesale and retail levels. Competition has lowered generation prices, shifted risks away from customers and spawned innovative products and services. During the last several years, the Company has worked diligently with the Commission, suppliers, statutory advocates and other stakeholders on many initiatives to support the expansion of the competitive retail electricity market in

Pennsylvania. PECO Energy Company ("PECO") has implemented, for example: extensive customer education and outreach programs; a zero-discount (after recovery of costs), non-recourse purchase-of-receivables program; electronic data interchange ("EDI") transactions to enable Electric Generation Suppliers ("EGSs") to obtain prospective customers' historic interval usage; and eligible customer list improvements. Through the competitive retail market, Exelon Energy Company ("Exelon Energy") provides cost savings, innovative product solutions, and customized electricity services to schools, hospitals, religious institutions and businesses in Pennsylvania. In collaboration with Commission Staff, EDCs and other suppliers, Exelon Energy also actively participates in the Commission's CHARGE group to establish effective retail processes that provide consumers the best possible value.

Exelon looks forward to continuing to work with the Commission and other stakeholders to ensure the sustainability, continued growth and success of electric retail competition in Pennsylvania. Exelon, however, respectfully requests that the Commission recognize that the retail market across Pennsylvania is still developing. In PECO's service territory, where generation rate caps expired only five months ago, the market is undergoing rapid change with a current average of 1,000 customers switching to EGSs each day. As such, Exelon believes any major shift in default service policy must be considered carefully and implemented thoughtfully and must make sense both for the short-term and long-term. Transitioning from the current model to any fundamentally different model must be managed closely to minimize risks, uncertainty and costs to customers, suppliers and EDCs so as to protect customers' interests and ensure that any changes to the model do not abrogate existing default service contracts with wholesale suppliers or undermine the certainty of future contracts.

In addition, Exelon believes that all stakeholders must recognize that any change in the default service model must comport with all of the Commonwealth's long-term policy goals for electricity. The Legislature and the Commission have long recognized that competitive electricity market benefits must be properly balanced with customer interests. The Electricity Generation Customer Choice and Competition Act ("Competition Act")[1] was enacted in December 1996 to benefit customers by providing competitively priced electricity and innovative energy products, while also ensuring universal service and energy conservation. Act 129 of 2008 ("Act 129"), amending the Competition Act, included provisions promoting additional Commonwealth energy goals – customer protections, the growth and development of alternative energy markets and energy conservation and efficiency. Given that the Legislature has identified these goals as worthy public policy objectives, any changes the Commission proposes to the existing default service model must balance and support these goals.

---

[1] 66 Pa.C.S. §§ 2801-2812.

I. BACKGROUND OF ELECTRIC COMPETITION IN PENNSYLVANIA

Prompted by electricity prices higher than the national average,[2] Pennsylvania and a number of states passed laws restructuring their electricity markets in the mid-to-late 1990s. Noting that "competitive market forces are more effective than economic regulation in controlling the cost of electricity,"[3] Pennsylvania's Competition Act mandated that, by January 1, 2001, all electric customers have the ability to choose an EGS.[4] The Competition Act further provided that EDCs should continue to be the Provider of Last Resort ("POLR") "to ensure the availability of universal electric service" unless another POLR was approved by the Commission.[5]

In 2008, the Legislature amended the Competition Act through Act 129, changing the term POLR to Default Service Provider ("DSP") and requiring the DSP to procure its default service supply through a Commission-approved competitive procurement plan.[6] Power procured through the plan was required to be a "prudent mix" of spot market purchases, short-term contracts and long-term contracts,[7] designed to ensure "the least cost to customers over time."[8] Further, the smart meter provisions of Act 129 required that the DSP must make time-of-use rates and a real-time price plan available to all customers provided with smart meter technology.[9]

---

[2] 66 Pa.C.S. § 2802(4).
[3] *Id.* at § 2802(5).
[4] 66 Pa.C.S. § 2806(a).
[5] 66 Pa.C.S. §§ 2802(16), 2807(e).
[6] *Id.* at § 2807(e)(3.1).
[7] *Id.* at § 2807(e)(3.2).
[8] *Id.* at § 2807(e)(3.4)(ii).
[9] *Id.* at § 2807(f)(5).

II. ISSUES IN CHANGING THE DEFAULT SERVICE MODEL

A. The Commission Must Determine What Defines A Successful Competitive Market.

Before it can answer the ultimate question of what changes, if any, are appropriate to foster sustainable growth in the retail electricity market, the Commission must determine what defines a successful competitive market. Exelon submits that although the percentage of customers shopping is a relevant consideration, it is not the only indicator of success. A competitive retail market's sustainability is also vitally important to success, as sustainability ensures retail suppliers can offer products through different phases of the commodity and market cycles, and thus provides the certainty that suppliers seek when making investment decisions in the Commonwealth. Indeed, as detailed more fully in response to Question 2, a successful and sustainable competitive retail market should include the following attributes: (i) market contestability, with low barriers to supplier entry and exit; (ii) default service procurements which are more reflective of shorter-term market prices; (iii) informed customers who can easily compare products, prices, terms and conditions; (iv) ease of switching for customers from default service to a competitive supplier and among competitive suppliers; (v) non-discriminatory access for EGSs to customer usage and billing information; and (vi) regulatory oversight by the Commission to protect customers' interests.

B. Any Fundamental Changes To The Default Service Model Should Consider The Positive Elements Of The Current Structure.

The Commission, EDCs, suppliers and other stakeholders have collaborated to develop the DSP structure since the late 1990s. After early fairly robust switching to EGSs, rate caps suppressed customer participation in retail markets until recently when rate caps expired throughout the Commonwealth. As described further in the response to Commission Question 1, early indicators of competition in the PECO service territory are encouraging. Although PECO's generation rate caps and those in significant portions of the Commonwealth expired only five months ago, more than 310,000 PECO customers are actively shopping among more than 50 suppliers, and switching rates continue to average more than 1,000 customers per day. This promising start has been accomplished through significant investment by the Commonwealth, the Commission, EDCs and customers.

Exelon believes that having EDCs serve as DSPs makes sense at this stage of the market's development. Through broad participation by wholesale suppliers in the DSP competitive procurement process, retail customers currently enjoy the benefits of highly competitive wholesale markets. During the last several years, EDCs have invested in the infrastructure required to serve in this role, and customers should continue to benefit from the economies of scale created by those investments. Further, the current model includes solid customer protections, such as EDC procurement practices that are subject to the review and approval of the Commission. The current default service model is also integrated into the structure of the PJM wholesale markets. If an EGS or default wholesale supplier fails to meet its generation obligations in PECO's service territory, PJM rules now require PECO to manage that failure. Any new structure must include an orderly process for handling customers in the event a supplier goes out of business.[10]

If the Commission ultimately determines that fundamental changes to the model are appropriate, then the timing of any such changes must be managed to ensure that they do not interfere with existing contracts and are coordinated with the DSP filings that the EDCs must soon make. If, at the time of the next default service offering, the future structure of the market

[10] For example, in the early days of restructuring, when New Power (a joint effort of Enron, AOL and IBM) defaulted despite having escrow/surety in place, PECO was forced to assume service for 180,000 customers overnight.

is uncertain, Exelon is concerned that wholesale suppliers will either include significant risk adders in their bids to reflect high levels of uncertainty, or may avoid the risk by not bidding at all. In addition, to avoid abrogating or frustrating the purpose of existing default service supply contracts, any changes should only apply prospectively and not retroactively to existing contracts or to contracts entered into through an approved DSP plan. Finally, Exelon notes that fundamental changes to the current model likely would necessitate statutory changes, which must be fully vetted through the legislative process.

C. The Commission And Stakeholders Could Consider A Range Of Potential Improvements To The Current Model And Should Not Prejudge The Results Of The Investigation.

A range of potential changes to the default service model have been discussed in recent months. These run the gamut from relatively straight forward enhancements that could be accomplished under current law to fundamental changes that would require significant rewrites of the Public Utility Code. While Exelon believes that it is too early to simply abandon the current DSP model in favor of something drastically different, Exelon acknowledges that modifications could be made to enhance the current model.

For example, over time, DSP products could begin to move further toward pricing that is more reflective of shorter-term market pricing consistent with the Commission's Final Policy Statement.[11] Other potential enhancements or modifications could be considered under current law, such as the extension or expansion of consumer education activities, including customer outreach and advertising, and customer referral programs. Regardless of which options the Commission determines are good public policy, it is critically important to give stakeholders the

[11] Final Policy Statement, *Default Service and Retail Electric Markets*, Docket No. M-00072009 (2007), 52 Pa. Code § 69.1805.

time to work through all potential impacts of changes to Pennsylvania's model to avoid creating risks, costs and uncertainty for customers, EDCs, competitive suppliers and the market.

III. RESPONSES TO COMMISSION QUESTIONS

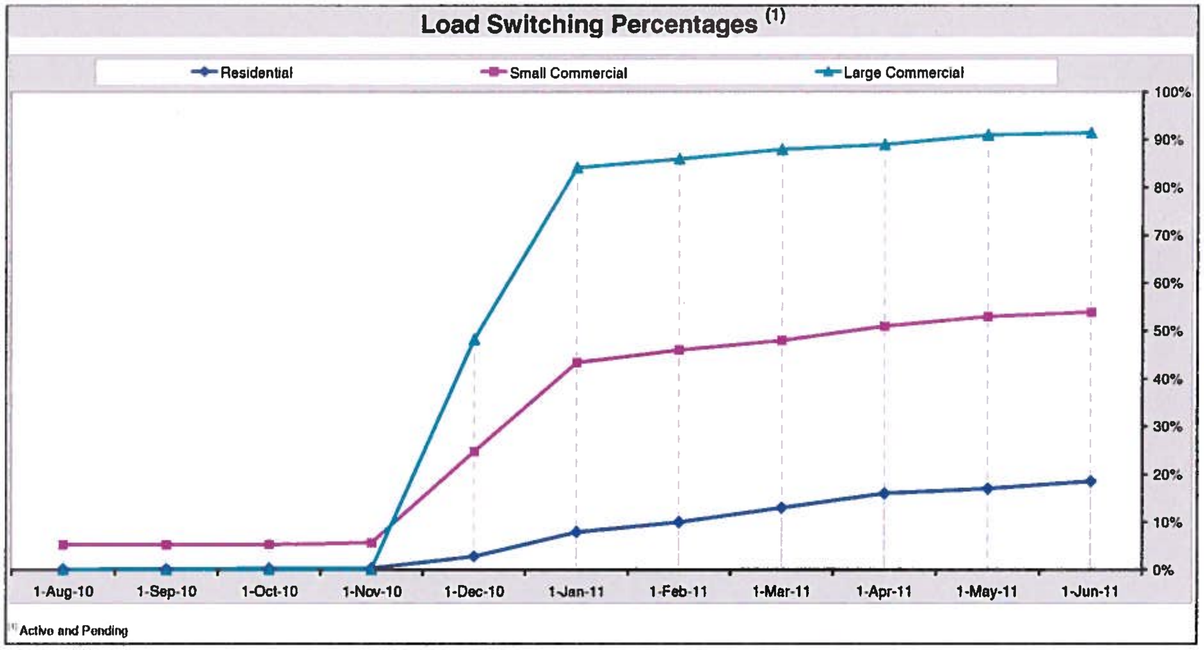
1. What is the present status of competition for retail electric generation for customers, by class and service territory, and for alternative suppliers?

Under current law, PECO is obligated to serve as the DSP in its service territory.[12] On January 1, 2011, generation rate caps for PECO's customers, approved by the Commission thirteen years ago as part of PECO's restructuring under the Competition Act, expired. During the period these rate caps were in effect, shopping by electric customers in PECO's service territory – and competition for those customers – was limited. In late 2010, only 2.5% of PECO's customers were served by an EGS (8.9% of load).

Since rate caps expired five months ago, the number of customers switching to EGSs and the increase in competition by EGSs has been dramatic. To date, 20% of PECO's customers are shopping, and more than half of the entire customer load in PECO's service territory is now being served by EGSs. Among residential customers, 246,981 accounts (17% of all residential customers and 19% of residential load) have chosen to obtain generation service from an EGS. More than 82% of industrial customers are shopping (representing 91% of PECO's industrial load). Among commercial customers, 38% have selected an EGS (corresponding to 54% of PECO's commercial customer load). Each day, PECO receives more than 1,000 enrollments from customers switching their generation service from PECO to a wide range of EGSs.

[12] *See* 66 Pa.C.S § 2803. While PECO does not necessarily need to serve in the role of DSP, PECO has a broad interest in ensuring that the Commonwealth develops an energy policy that protects the interests of PECO's 1.6 million distribution customers, ensures cost recovery and is sustainable over the long term.

The following chart shows this information in graphic format:



The decision by so many customers to switch from default service to an EGS since January, and the ease with which so many suppliers have rapidly and successfully competed for customers in that five-month period, indicates that retail competition in PECO's service territory is off to a promising start.

Exelon believes this rapid growth has been facilitated by PECO's investment in customer education, information technology system upgrades and many other improvements implemented pursuant to PECO's Commission-approved default service plan and other Commission directives. These actions include the following:

- A comprehensive EGS purchase-of-receivables ("POR") program in which PECO buys amounts owed to EGSs by PECO customers for generation service without discount (after recovery of program implementation costs) and collects those amounts from customers without recourse to the EGSs if the receivables are uncollectible.

- A direct mail outreach program to every PECO customer to refresh the customer's preferences regarding release of its usage information and other data, resulting in a 67 percent increase in the number of customers deciding to release their data to EGSs.

- A wide variety of information technology and internet-based upgrades, including a web-based tool for customers and suppliers to easily download usage information and a web-based Price-to-Compare tool for customers.

- Significant improvements to eligible customer lists for suppliers, including complete list postings every month (instead of quarterly), and weekly posting of interval accounts.

- Extensive electronic data interchange ("EDI") upgrades, including expanded historic usage data and advanced drop notice to permit EGSs to better manage their customer portfolios.

- A $6 million customer education program that focuses on changes to the energy market, the impact on customers and promotion of shopping and other tools to help customers understand and manage their energy use. The campaign includes earned media, paid media, direct communication, web support and more than 700 community events and other customer outreach resulting in 277,000 customer interactions.

- Promotion of shopping through inclusion of EGS contact information in mailings to customers, as well as PECO-sponsored public events for customers with EGSs.

- Special webinars and other educational events for EGSs, including a special workshop for EGS "back office" employees to review business rules and technical matters for retail market transition.

- Expedited release of default service procurement results to facilitate EGS pricing in comparison to default service rates.

- Improvements to load settlement, including updated customer load curves and inclusion of Unaccounted for Energy in day-after settlement to reduce supply cost reconciliation lag time.

- The creation of a territory zip code database to enable EGS direct mail marketing efforts.

Notably as well, on a statewide basis, more than 1 million Pennsylvania customers (20% of all customers) have selected an EGS for competitive generation supply, and nearly half (49%) of all customer load in Pennsylvania is now served by EGSs. Currently, 205 EGSs have registered to serve customers in the Commonwealth; more than 50 EGSs compete to provide generation service in PECO's service territory, with 42 EGSs actively serving residential customers.

Exelon believes Commission initiatives such as the CHARGE group have facilitated this substantial growth in retail shopping statewide. Through CHARGE, the Commission created an effective stakeholder forum in which EGSs, EDCs, consumer advocates and others identify process improvements to optimize the competitive marketplace. Such demonstrated support for expanding competition encourages EGS investment in the market and in the Commonwealth.

2. Does the existing retail market design in Pennsylvania present barriers that prevent customers from obtaining and suppliers from offering the benefits of a fully workable and competitive retail market? To the extent barriers exist, do they vary by customer class?

To assess the success of the existing retail electric market design in Pennsylvania and the merit of any proposed improvements, Exelon believes that the Commission first must clearly define what constitutes a "fully workable and competitive retail market" in the Commonwealth. Exelon respectfully submits that a "fully workable and competitive retail market" for electricity has the following primary characteristics:

- **Market Contestability, with Low Barriers to Supplier Entry and Exit –** EGSs should be able to enter and exit the market easily to offer products to customers, without costly or overly complex restrictions and under stable and transparent regulatory frameworks.

- **Market Sustainability** – The price of any available default service product must be sufficiently reflective of shorter-term market prices to enable retail suppliers to offer products through different phases of the commodity and market cycles.

- **Informed Customers** – Customers should be aware of their ability to choose competitive supply, informed of their choices and able to easily compare options, prices, terms and conditions.

- **Ease of switching** – Customers should be able to switch easily from default service to a competitive supplier, and also to switch between competitive suppliers to pursue different opportunities and offerings.

- **Non-discriminatory Access to Billing and Usage Information and Effective Affiliate Rules** – EGSs should have access to customer billing information consistent with customer authorization, and without discrimination in favor of particular suppliers. Codes of conduct and other mechanisms should be in place so that there is no discrimination in favor of EGSs affiliated with default service providers.

- **Regulatory Oversight** – The Commission should have sufficient jurisdiction and control of retail market participants to ensure compliance with market regulations, such as protection of consumers from supplier misrepresentations in door-to-door sales activity and obfuscatory sales agreements.

Exelon does not believe that there are fundamental barriers to customers obtaining the benefits of retail competition. While shopping percentages are significantly higher for industrial and commercial customers than for residential customers in PECO's service territory, Exelon does not believe this reflects structural barriers in Pennsylvania's retail market design, but rather reflects commercial and industrial customers' greater familiarity and experience in seeking and evaluating competitive offers for energy procurement. Exelon does acknowledge, however, that enhancements and modifications to the current model would be beneficial over time to ensure the sustainability of the residential market. For example, as identified above, we believe that default service procurements should be more reflective of shorter-term market prices to protect against the "boom/bust cycle" that can exist when longer-term procurements diverge from current market conditions. EGSs are less likely to invest long term when their ability to provide energy products through different phases of the commodity cycle is in question.

3. **What are the economic and managerial costs associated with electric distribution companies (EDCs) fulfilling the default service role? Are the EDCs accurately passing those costs along to default service customers? Do default service rates include any elements that are not cost-based? Is an examination of distribution rates needed to ensure proper cost allocation? Are there barriers to competition as a result of having EDCs provide default service?**

The Commission's regulations and policy statement set forth the recoverable costs associated with EDCs serving as DSP. These DSP costs are subject to Commission and stakeholder review and approval through default service plan proceedings. In the case of PECO, these costs have also recently been subjected to Commission and stakeholder review in the PECO electric base rate case filed in 2010. Thus, all of PECO's default service costs have been fully and publicly reviewed and approved by the Commission.

The Commission's regulations at 52 Pa. Code § 54.187(d) provide that the default service rate, or "price to compare" ("PTC"), shall be designed to recover "all default service costs, including generation, transmission and other default service cost elements, incurred in serving the average member of a customer class."[13] The Commission's Policy Statement at 52 Pa. Code § 69.1808(a), identifies the recoverable default service "cost elements" in the following terms:

> (a) The PTC should be designed to recover all generation, transmission and other related costs of default service. These cost elements include:
>
> > (1) Wholesale energy, capacity, ancillary, applicable RTO or ISO administrative and transmission costs.
> >
> > (2) Congestion costs will ultimately be recovered from ratepayers. Congestion costs should be reflected in the fixed price bids submitted by wholesale energy suppliers.
> >
> > (3) Supply management costs, including supply bidding, contracting, hedging, risk management costs, any scheduling and forecasting services provided exclusively for default service by the EDC, and applicable administrative and general expenses related to those activities.
> >
> > (4) Administrative costs, including billing, collection, education, regulatory, litigation, tariff filings, working capital, information system and associated administrative and general expenses related to default service.
> >
> > (5) Applicable taxes, excluding Sales Tax.
> >
> > (6) Costs for alternative energy portfolio standard compliance.

On September 8, 2008, PECO filed, for Commission review and approval, a proposed Default Service Program and Rate Mitigation Plan. That filing was the subject of extensive

---

[13] *See also* 66 Pa.C.S. § 2807(e)(3.9) ("The default service providers shall have the right to recover … all reasonable costs incurred under this section and a commission-approved competitive procurement plan.").

discovery, analysis and critique by a full range of interested stakeholders, including consumer representatives, wholesale marketers and EGSs. The parties ultimately executed, and the Commission approved, a Joint Petition for Settlement ("Settlement") that, among other things, delineated the costs to be recovered through PECO's default service rates.[14] Notably, Paragraph 50 of the Settlement includes a schedule setting forth the specific costs PECO must include in its PTC.[15]

PECO was authorized to include in its PTC, or "Generation Supply Adjustment" clause ("GSA"), specific categories of administrative and energy supply-related costs that the parties agreed it would incur in rendering default service. Such costs generally include the cost of full requirements, block energy and spot market wholesale supply purchases; PJM-related charges; information technology costs associated with billing changes and procurement cost tracking systems; the cost of the independent procurement evaluator; and the costs incurred in developing and obtaining Commission approval of PECO's default service plan.

On March 31, 2010, PECO filed an electric distribution base rate case. Consistent with Section 69.1808(b) of the Commission's Policy Statement (52 Pa. Code § 69.1808(b)), PECO scrutinized its distribution rates to determine whether any generation-related costs remained embedded therein. Based on that examination, PECO not only unbundled the Exhibit F costs previously identified in its default service plan proceeding, but also proposed to include in its GSA a Generation Supply Working Capital ("GSWC") charge. The GSWC charge was designed to ensure that the working capital component of PECO's generation supply costs was treated on a competitively neutral basis by unbundling it from distribution rates and recovering it from default service customers only. In addition, PECO proposed, and the Commission approved, a

---

[14] *Petition of PECO Energy Company for Expedited Approval of its Default Service Program and Rate Mitigation Plan*, Docket No. P-2008-2062739 (June 2, 2009).
[15] *Id.* at Exhibit F.

Transmission Cost Working Capital ("TCWC") charge, which a customer may avoid by shopping.

PECO's distribution rate filing was suspended by the Commission and thoroughly investigated by various intervening parties. Following extensive discovery, the submission of direct, rebuttal and surrebuttal testimony and lengthy negotiations, the parties were able to resolve all but one issue.[16] In so doing, the parties agreed that the Settlement Rates, including PECO's proposed GSWC and TCWC, were reasonable. The Settlement of PECO's distribution rate filing was approved by the Commission by Order entered December 21, 2010. *Pennsylvania Public Utility Commission v PECO Energy Company*, Docket No. R-2010-2161575.

In summary, PECO, with the participation and concurrence of interested stakeholders and with the approval of the Commission, has successfully unbundled its generation-related costs and is currently recovering such costs from its default service customers. PECO's default service rates do not include any non cost-based elements.

4. Are there unintended consequences associated with EDCs providing default service, and related products, such as time-of-use rates?

Exelon recognizes that some residential customers have been reluctant to shop competitively for electricity for a variety of reasons. For example, some customers may be either uninformed about their ability to shop, or simply indifferent to it. Exelon believes, however, that increased consumer education and customer referral programs can help.

Exelon does not believe that the EDCs' provision of "related products" has yielded unintended consequences. For the most part, EDCs have offered only standard default service at

[16] The issue reserved for litigation involved the Office of Trial Staff's proposal that PECO be required to unbundle generation-related uncollectible accounts expense from its distribution rates. In its final Order, the Commission agreed with PECO that the unbundling of uncollectible accounts expense was unnecessary given PECO's implementation of a revised electric POR program.

fixed or hourly rates. The principal exceptions to this general rule have been services, such as time-of-use rates, that EDCs are required to offer by legislative mandate.

The Commission recently approved PECO's Initial Dynamic Pricing and Customer Acceptance Plan at Docket No. M-2009-2123944, which will test various combinations of offerings and rates. Under the plan, PECO will file multiple reports with the Commission on the effectiveness of various dynamic pricing offerings, and this data should be very useful to suppliers in developing their own dynamic pricing offers. Additionally, as a result of the work of the Electronic Data Exchange Working Group, EGSs will have greater access to customer usage data that enables them to offer time-of-use rates.

In any event, EDC default service rates and any other products can only be implemented after Commission review and approval, and stakeholders who are concerned about such rates or products have ample opportunity to make their views known through the Commission's processes.

5. **Should default service continue in its current form? Does default service impede competition or otherwise prevent customers from choosing electricity products and services tailored to their individual needs? Does default service provide an advantage to the incumbent EDC and/or its generation affiliate(s)?**

Neither the Competition Act, nor Act 129, anticipated that Pennsylvania's default service model would be static or unchanging. Rather, DSPs are obligated to file default service plans every two years for review and approval, and the standard those plans must satisfy (originally the Competition Act's "prevailing market price" and subsequently Act 129's "prudent mix" and "least cost over time") embodies an inherent flexibility to address evolving market conditions and customer interests. Indeed, while the Competition Act recognized the importance of the EDC as a provider of last resort, the role of the EDC as DSP was not frozen in the default service model, and the Commission may select an alternative DSP when necessary for the accommodation, safety, and convenience of the public. *See* 66 Pa.C.S. § 2802(10) and 52 Pa. Code § 54.183.

As discussed in response to Question No. 2, Exelon believes that the current retail market design, as implemented in PECO's service territory, incorporates a number of features that facilitate the ability of EGSs to offer competitive rates and varied products. These features include the following:

Limited Default Service Rates That Are More Market-Responsive. PECO offers a limited set of default service rates that are no longer capped but, instead, are adjusted each quarter to reflect projected costs of wholesale supply. Industrial customers are offered default service based only on hourly energy market prices (an initial one-year transitional fixed-price service is closed to additional customers and now serves only 2% of PECO's industrial load), while commercial customers are offered a default service rate based on supply contracts with a ten to fifteen percent spot-price component. For residential customers, PECO's default service includes a mix of one- and two-year full requirements contracts, but PECO also procures a fixed portion of supply and conducts purchases and sales in the real-time energy markets. PECO's future rates are published well in advance of their effectiveness, allowing suppliers to market competitive products with full knowledge of what potential customers will have to pay for default service.

Proper Allocation Of Default Service Costs. As described in response to Question No. 3, the cost of default service supply is properly allocated by class to default service customers to avoid a cost "advantage" for default service as compared to competitive supply.

Retail Program Enhancements And On-Going Promotion Of Competitive Options. PECO has implemented a variety of new programs and enhancements to its systems to facilitate retail competition, as discussed in response to Question No. 1, and is conducting on-going campaigns to promote shopping to all of its customers (including advertisements, newsletters to customers, and outreach to community groups). There are additional improvements to the default service model that could be considered by the Commission, and several of those improvements are detailed in response to Question No. 7.

While PECO currently is the DSP in its territory, it does not necessarily have to fill that role in order for the current default service model to function well and deliver benefits to customers. However, suddenly removing EDCs from the DSP role just as competition is rapidly expanding, or creating an entirely different default service model when the regulatory and commercial structures developed over the past decade are delivering results, could create significant customer confusion, market uncertainty, and unnecessary costs. Should the Commission determine that fundamental changes to the default service model are needed, it should ensure that any such changes maintain established customer protections. Exelon emphasizes that removing the billing and customer care functions from EDCs is not necessary to enhance retail competition. The creation of separate "BillCos" or duplication of such functions among EGSs is unnecessary to the growth of competitive markets and, with no guarantee of any future customer benefits, will reduce current economies of scale that lower customer costs. Furthermore, unraveling the interrelationships between billing, collections, customer data and such programs as EDC purchasing of receivables would be a complex undertaking. Exelon believes it is the obligation of those who seek fundamental changes to the default service model to clearly articulate how alternative models will maintain customer protections and deliver real benefits.

Finally, the provision of default service by PECO does not advantage its retail affiliates; strict codes of conduct established by this Commission ensure separation of activities to prevent anti-competitive conduct.

6. **Can/should the default service role be fulfilled by an entity, or group of entities, other than the EDC? If the default service role should be filled by an entity other than an EDC, what mechanisms could be employed to transition the default service role away from the EDC and onto competitive electric generation suppliers (EGSs)? Are different approaches appropriate for different customer classes? What criteria should be used to ensure that EGSs are qualified to assume the default service role and maintain reliable service?**

As described in response to Question No. 5, transferring the role of DSP from the EDC without an appropriate transition plan would create customer confusion, market uncertainty, and additional costs just as retail competition is expanding in the Commonwealth. While the EDCs do not necessarily have to fill the role of DSP, Exelon believes there are a number of complex issues that would have to be addressed if the Commission (and ultimately the Legislature) determines to undertake fundamental changes to the default service model. These issues include: how the obligation to serve all customers (including those whose EGSs fail to provide service) will be implemented by a new DSP; how low-income programs currently operated by EDCs will be funded and regulated; how the energy efficiency requirements of Act 129 and the alternative energy mandates of the Alternative Energy Portfolio Standards Act will be measured and achieved; and whether an alternative default service model in which EDCs are not DSPs will adversely affect customer protections under Chapter 14 or require new customer complaint and credit mechanisms. Exelon believes these issues will require significant development and consideration during the course of this Investigation. Furthermore, in designing the second phase of the Investigation, the Company believes that certain key principles should guide the Commission's consideration of alternative default service models:

Change Should Not Impose Risks And Unnecessary Costs. Many customers and companies have made significant investments under the current default service model, and a well-developed transition structure will be necessary to avoid consumer uncertainty and improper costs. Moreover, in the event that an entity other than the EDC ultimately serves as the DSP, the Commission must continue to protect customers from risks. That is, the Commission should consider continuing to require a regulatory review process for default service plans, require new DSPs to engage in transparent procurement processes using an independent evaluator and enforce a code of conduct for transactions among affiliates. In addition, cost recovery of EDC expense arising from the transfer of the DSP role must be assured.

Change Should Be Prospective. Any changes to the default service model, whether incremental or more extensive, must be made in such a way as to not abrogate current contracts or undermine the certainty of future contracts. This is a particularly significant concern since, during the pendency of this Investigation, many EDCs will be preparing default service plans to serve customers after May 31, 2013, and uncertainty about Pennsylvania's electricity markets could create significant premiums in the wholesale cost of default service supply procured under such plans.

Change Must Take Into Account Wholesale Markets And The Possibility Of Supplier Default. Currently, the role of the EDC as DSP is integrated into the structure of PJM wholesale markets. If an EGS fails to deliver supply to serve its assigned load in PECO's service territory, the Public Utility Code and PJM rules require PECO to manage that failure.[17] In the event the DSP role is shifted from the EDCs, protections must be in place to ensure that EDCs are not required to continue to "backstop" the DSP.

Customer Care And Billing Functions Should Remain With EDCs. As discussed in response to Question No. 5, Exelon believes that customer care and billing functions currently provided by EDCs should not be transferred to EGSs or other third parties at this time. Duplication of these functions is not necessary to foster the growth of competitive markets, will almost certainly increase costs for customers and likely will confuse them.

The Commission has already created codes of conduct to preclude EDCs from discriminating in favor of any generation or retail marketing affiliate, and those codes of conduct should continue to be enforced.

Customers Must Have The Right To Choose Which Product They Will Buy. Exelon does not support mechanisms that will force customers to receive service with pricing or characteristics they do not select. While this principle does not preclude the use of customer assignment programs, any such programs would require specific customer protections (e.g., opt-out rights to participate in reasonable alternative programs).

---

[17] *See* 66 Pa.C.S. § 2807(e)(3.1).

7. **How can Pennsylvania's electric default service model be improved to remove barriers to achieve a properly functioning and robust competitive retail electricity market? Are there additional market design changes that should be implemented to eliminate the status quo bias benefit for default service?**

There are several initiatives available under existing law that the Commission could consider to further enhance the retail market and expand customer choice. Each of these possible initiatives has ramifications that should be thoroughly evaluated during the second phase of this Investigation.

Providing Default Service Rates For Commercial And Residential Customers That Are More Reflective Of Shorter-Term Market Prices. The Commission could establish new default service procurement guidelines for the "prudent mix" of contracts for residential and commercial customers that are more reflective of shorter-term market prices.

Customer Referral Programs. Under a customer referral program, EDCs typically provide information to customers about their ability to shop for electric supply and also may refer them to a participating EGS. Customer referral programs could require participating EGSs to offer a standard discount off the default rate for a fixed-term product with a guarantee of customer savings for a certain term. At the end of the initial or introductory fixed-term, the customer could negotiate new terms with the EGS, select a new EGS, or return to the DSP with no fees or limitations.

Phase-Out Of PECO Wind. PECO currently offers a program ("PECO Wind") in which 25,000 customers purchase Pennsylvania wind energy. As retail competition has expanded in its service territory, PECO has noted the increasing number of "green" energy options available to customers and believes PECO Wind could be phased-out to increase the potential customer market for competitive renewable energy-based supply. Any elimination of

PECO Wind and similar EDC programs will require a transition mechanism for participating customers to learn about and evaluate available options.

Allow Completion Of Current Rate Design Transition Mechanisms. PECO has more than 200,000 customers currently taking service under its residential heating ("RH") and off-peak ("OP") rates. In the settlement of PECO's DSP proceeding, the parties agreed to phase-out the generation rate discounts associated with the RH and OP rates over a three-year period. The phase-out of these rate discounts will be completed January 1, 2013. As these discounts are phased out, we expect to see increased shopping as more of these customers take advantage of savings in the market.

Expanded Customer Education. Continuation or expansion of PECO's current customer education program could include advertising, direct mail and customer outreach to promote shopping. Details and budget for continuation of customer education programs could be discussed at the next stage of the Investigation.

In addition to other measures to encourage customers to move from default service into the competitive retail market, Exelon suggests that the Commission should further enhance mechanisms to facilitate competitive shopping by residential customers *among* EGSs. For example, it is critical to maintain rules requiring EGSs to provide transparent pricing and terms to residential customers so they can easily evaluate different EGS offers,[18] just as customers can compare EGS offers against the default service PTC now included on every EDC bill. The Commission's website, PA Power Switch, is a helpful tool in this effort.

[18] *See, e.g.*, Proposed Rulemaking Order, *Marketing and Sales Practices for the Retail Residential Energy Market*, Docket No. L-2010-2208332 (2011).

8. What modifications are needed to the existing default service model to remove any inherent procurement (or other cost) advantages for the utility?

As a threshold matter, Exelon does not believe that EDCs obtain, or are seeking to obtain, any "cost advantage" relating to default service. All default service procurements are conducted publicly in accordance with Commission-approved procedures and plans, under the auspices of a Commission-approved independent evaluator. The timing and mandated "prudent mix" of products of varying contract lengths also are reviewed and approved by the Commission and cannot be substantially changed absent further Commission action. The Commission must also approve the results of each procurement and publicly disclose the average prices. Default service supply costs are all included in an EDC's default service rates, which remain subject to Commission review.

9. What changes, to Regulations or otherwise, can the PUC implement on its own under the existing default service paradigm to improve the current state of competition in Pennsylvania?

See response to Question No. 7.

10. What legislative changes, including changes to the current default service model, should be made that would better support a fully workable and competitive retail market?

As described in response to Question No. 7, Exelon does not believe any legislative changes are necessary to implement its suggested improvements to enhance retail shopping opportunities.

11. Are there, or could there be, potential barriers being created by the implementation of the EDC Smart Meter plans?

To the contrary, Exelon believes that smart meter infrastructure will create new opportunities for suppliers by providing more data to customers and EGSs while also maintaining critical grid security. Knowing more about their own energy usage will enable customers to make more informed decisions about new energy products, while EGSs can develop innovative products based on customer needs.

As required by Act 129, suppliers will have access to customer meter data provided by smart meters providing additional opportunities for developing pricing and programs to attract customers. Furthermore, the Commission's Implementation Order at Docket No. M-2009-2092655 requires EDCs to provide suppliers with validated, bill quality consumption data within 48 hours of the meter read, written detailed disclosure of data definitions and characteristics and written update notices of changes in data characteristics as the changes become effective.[19] The Implementation Order further directs the EDCs to adhere to common industry and communications standards for providing consumers direct access to smart meters and data.[20] Exelon notes, however, that as Smart Meters are deployed, EDCs will need to work closely with the Commission and stakeholders to ensure that proper protocols and security measures are developed.

---

[19] Implementation Order, *Smart Meter Procurement and Installation*, Docket No. M-2009-2092655 (2009).
[20] *See Id.*

IV. CONCLUSION

Exelon appreciates the opportunity to comment on the Investigation Order and asks that the Commission consider its comments. Exelon looks forward to working with the Commission and other stakeholders as the Investigation progresses.

Respectfully submitted,

Anthony E. Gay (Pa. No. 74624)
Jeanne Dworetzky (Pa. No. 62389)
Exelon Business Services Company
2301 Market Street
P.O. Box 8699
Philadelphia, PA 19101-8699
Phone: 215.841.4635
Fax: 215.568.3389
anthony.gay@exeloncorp.com
jeanne.dworetzky@exeloncorp.com

Date: June 3, 2011

Counsel for PECO Energy Company, Exelon Generation Company and Exelon Energy Company

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

INVESTIGATION OF	:	
PENNSYLVANIA'S RETAIN	:	DOCKET NO. I-2011-2237952
ELECTRICITY MARKET	:	

CERTIFICATE OF SERVICE

I, Jeanne J. Dworetzky, hereby certify that I have this day served a true and correct copy of the **Comments of Exelon to the April 29, 2011 Investigation Order** electronically upon the following:

Tanya McCloskey, Esq.
Senior Assistant Consumer Advocate
Darryl Lawrence
Assistant Consumer Advocate
Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923
tmccloskey@paoca.org

William Lloyd
Small Business Advocate
Office of Small Business Advocate
Commerce Building, Suite 1102
300 North Second Street
Harrisburg, PA 17101
willloyd@state.pa.us

Johnnie Simms
Office of Trial Staff
Commonwealth of Pennsylvania
Pennsylvania Public Utility Commission
P.O. Box 3265
400 North Street, 2nd Floor West
Harrisburg, PA 17105-3265
josimms@state.pa.us

Office of the Competitive
Market Oversight
Pennsylvania Public Utility
Commission
400 North Street, Second Floor
Harrisburg, PA 17120
ra-OCMO@state.pa.us

Dated: June 3, 2011

Jeanne Dworetzky

Anthony E. Gay (Pa. No. 74624)
Jeanne Dworetzky (Pa. No. 62389)
Exelon Business Services Company
2301 Market Street
P.O. Box 8699
Philadelphia, PA 19101-8699
Phone: 215.841.4635
Fax: 215.568.3389
anthony.gay@exeloncorp.com
jeanne.dworetzky@exeloncorp.com