

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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IRWINA. POPOWSKY
Consumer Advocate

February 3, 2011

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

RE: Petition of PECO Energy Company for
Approval of its Smart Meter Technology
Procurement and Installation Plan – Petition
for Approval of PECO Energy Company's
Initial Dynamic Pricing and Customer
Acceptance Plan
Docket No. M-2009-2123944

Dear Secretary Chiavetta:

Enclosed for filing is the Reply Brief of the Office of Consumer Advocate, in the above-referenced proceeding.

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

Respectfully Submitted,

A handwritten signature in cursive script that reads "Jennedy S. Johnson".

Jennedy S. Johnson
Assistant Consumer Advocate
PA Attorney I.D. # 203098

Enclosures

cc: Honorable Marlane R. Chestnut

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

| | | |
|--|---|---------------------------|
| Petition of PECO Energy Company for | : | |
| Approval of its Smart Meter Technology | : | |
| Procurement and Installation Plan - Petition | : | Docket No. M-2009-2123944 |
| for Approval of PECO Energy Company's | : | |
| Initial Dynamic Pricing and Customer | : | |
| Acceptance Plan | : | |

REPLY BRIEF
OF THE
OFFICE OF CONSUMER ADVOCATE

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Dated: February 3, 2011

I. INTRODUCTION AND SUMMARY OF THE ARGUMENT

As the OCA demonstrated in its Main Brief and in the testimony it presented in this proceeding, PECO's proposal to collect the administrative costs of its Dynamic Pricing Plan (Plan) solely from default service customers is unreasonable. Administrative costs represent \$9.5 million of the \$11.6 million total Plan budget. The Company's Plan is a "test and learn" pilot program aimed at identifying effective combinations of rates, technology, education and promotional strategies for future offerings that will be made to all customers with smart meters whether by PECO or an EGS. All customers in the rate classes to which costs will be assigned will benefit from the Plan. Therefore, the OCA submits that the Company should collect these administrative costs from all customers on the respective rate schedules to which costs are assigned.

In their Main Briefs, the Company, PAIEUG and OSBA asserted that the OCA's proposed collection method is inconsistent with Commission precedent and is anti-competitive. These assertions are without merit. As the OCA explained in its Main Brief, the Company's proposal to recover the administrative costs of its Plan only from default service customers through the Generation Supply Adjustment (GSA) is not consistent with the principles of cost causation and is not equitable. The Company's Plan is a pilot program designed to obtain information on how customers decide to participate in dynamic pricing programs, what promotional messages customers best respond to and what actions customers will take in response to the rates. This information will be shared with the public - including both shopping and non-shopping customers and third party suppliers - greatly enabling both education and design for all customers and for third party suppliers. Further, default service customers did not

and will not cause the Company to incur these costs; the cause of the costs is compliance with the mandates of Act 129.

The OCA has established that it is appropriate to collect these costs in a manner that reflects the purpose of Act 129 and the benefits to be derived from this initiative. Accordingly, the OCA requests that the Commission find that it is appropriate to collect the administrative costs of PECO's Dynamic Pricing Plan from all customers in the respective rate classes to which costs are assigned.

II. ARGUMENT

A. PECO and PAIEUG's Assertion that the OCA's Proposal is Inconsistent with Prior Commission Precedent is Erroneous

PECO and PAIEUG allege that the OCA's proposal is inconsistent with Commission precedent citing recent TOU cases for PPL Electric Utilities (PPL) and Duquesne Light Company (Duquesne). See PECO M.B. at 3-5, PAIEUG M.B. at 3-4. The OCA submits that the evidence of record here supports the Commission reaching a different conclusion in this proceeding than in the PPL TOU and Duquesne TOU proceedings. The Duquesne TOU proceeding is distinguishable from this proceeding in that Duquesne already had a TOU plan in place as part of its current Default Service Plan. Petition of Duquesne Light Co. for Approval of a TOU Plan, Docket No. P-2009-2149807 at 3 (Order entered June 23, 2010). Further, Duquesne's proposal to include its costs as part of its Customer Education Surcharge is a completely different mechanism from the one at issue in this proceeding. Id. at 9.

In the PPL TOU proceeding, no evidence was presented regarding the benefits of the PPL TOU rate to all customers. Additionally, that program was not, as here, a pilot whose purpose is to test the initial dynamic pricing rates in order to: (1) better understand how to cost-effectively enroll customers in voluntary dynamic rate programs and related offerings and (2)

examine and understand the load impact of different dynamic rates and technology options. Pet. at 6. Such research, measurement and evaluation provides a benefit to all customers as it will shape products and programs that the Company and EGSs will offer to its customers (in the participating rate classes) in the future.

Mr. Hornby, as well as Company witnesses Faruqui and George, describe the benefits of PECO's Plan for all customers, both those who shop and those who take default service. Mr. Hornby explains that the Company's Plan is a pilot program designed to obtain information on how customers decide to participate in dynamic pricing programs, what promotional messages customers best respond to and what actions customers will take in response to the rates. OCA St. 1 at 19-20. This information will be shared with the public - including both shopping and non-shopping customers and third party suppliers - greatly enabling both education and design for all customers and for third party suppliers. Id.

In addition, Mr. Hornby described other benefits to both EGSs who rely on PECO's billing systems and all shopping customers. Mr. Hornby explained:

EGS[s] will be able to take advantage of changes that the Company makes in its data processing and billing systems in order to support CPP and TOU rates. Finally, there is no prohibition in the Plan that would preclude a shopping customer from returning to default service (in accordance with their contractual commitments with the EGS) and taking service under the CPP to TOU rates if they so choose.

OCA St. 1-S at 12.

Company witnesses George and Faruqui expounded on the benefits to EGSs and agreed that all customers, including those who are currently shopping, will benefit from the information regarding dynamic pricing that the Plan will develop. Drs. Faruqui and George said that the lessons learned from the two rate designs:

will raise awareness of other choices and products that EGSs can compete with. Additionally, the Company will produce a final, publically available report that describes the results of the research, which could be beneficial to all interested stakeholders and third party suppliers.

OCA St. 1, Exh___(JRH-4). In his Rebuttal, Dr. George further stated that “the ‘test and learn’ strategy is flexible and intended to inform full-scale dynamic rate deployment in the future.”

PECO St. 2-R at 4. Given this evidence, the OCA submits that the Commission should hold that the costs of the PECO Plan be recovered from all customers.

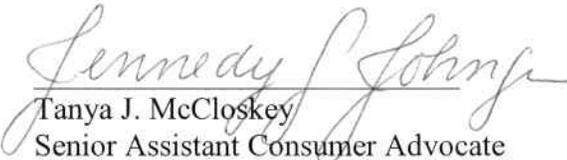
B. OSBA and PAIEUG’s Assertion that the OCA’s Proposal is Anticompetitive is Without Merit

OSBA and PAIEUG state that the OCA’s proposal is anticompetitive as it requires customers to pay for a program in which they cannot participate. OSBA M.B. at 405, PAIEUG M.B. at 5. This simply is not the case. As was mentioned above, there is nothing in the Company’s Plan that would preclude a shopping customer from returning to default service (in accordance with their contractual commitments with the EGS) and taking service under the CPP or TOU rates if they so choose. OCA St. 1-S at 12. By the same token, there is nothing that precludes a default service customer from shopping. Whether or not a customer is shopping at a particular point in time is not at all determinative of appropriate cost recovery. It is inequitable to allow some customers to avoid these “test and learn” costs that benefit all customers.

III. CONCLUSION

For the reasons set forth above, in its Main Brief, and in its testimony, the OCA respectfully requests that the Commission find that it is appropriate to collect the administrative costs of PECO's Dynamic Pricing Plan from all customers in the respective rate classes to which costs are assigned.

Respectfully Submitted,



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Dated: February 3, 2011
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CERTIFICATE OF SERVICE

Petition of PECO Energy Company for :
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for Approval of PECO Energy Company's :
Initial Dynamic Pricing and Customer :
Acceptance Plan :

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

Dated this 3rd day of February 2011.

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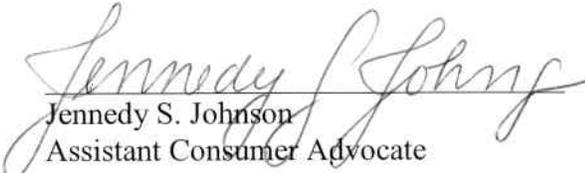
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