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# RHOADS & SINON LLP

FILE NO. 09000/09960

February 17, 2012

VIA HAND DELIVERY

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

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**Re: Petition of PECO Energy Company for Approval of a Default Service Program**  
**Docket No. P-2012-2283641**

Dear Ms. Chiavetta:

Delivered herewith please find an original and three (3) copies of the "**Petition to Intervene Nunc Pro Tunc on behalf of Washington Gas Energy Services, Inc.**" in the above captioned proceeding. Please enter this into the docket, and timestamp the additional two (2) copies. Washington Gas Energy Services is filing this Petition several days beyond the established due date, and requests that they be accepted *nunc pro tunc*. Copies will be provided to the persons as indicated in the certificate of service.

Should you have any questions, please do not hesitate to contact us at (717) 237-6716.

Sincerely,

RHOADS & SINON LLP

By:



Scott H. DeBroff, Esq.

Alicia R. Duke, Esq.

Counsel for Washington Gas Energy Services

Enclosure

cc: Certificate of Service

**COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PETITION OF PECO ENERGY COMPANY  
FOR APPROVAL OF A DEFAULT SERVICE  
PROGRAM

DOCKET No. P-2012-2283641

**PETITION TO INTERVENE NUNC PRO TUNC ON BEHALF OF  
WASHINGTON GAS ENERGY SERVICES, INC.**

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**ALICIA R. DUKE, ESQ.**  
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DATE: FEBRUARY 17, 2012

COUNSEL FOR WASHINGTON GAS ENERGY SERVICES

**COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PETITION OF PECO ENERGY COMPANY  
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**PETITION TO INTERVENE NUNC PRO TUNC ON BEHALF OF  
WASHINGTON GAS ENERGY SERVICES, INC.**

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AND NOW COMES Washington Gas Energy Services, Inc. ("WGES") by and through its counsel, **Scott H. DeBroff, Esquire** and **Alicia R. Duke, Esquire** of Rhoads & Sinon LLP, and files pursuant to 52 Pa. Code §§ 5.71-76, to intervene in the Petition of PECO Energy Company ("PECO" or "Company") for approval of its Default Service Program ("DSP Petition"). In support of its Petition Nunc Pro Tunc, WGES states the following:

1. WGES is an indirect wholly-owned subsidiary of WGL Holdings, Inc. ("WGLH"), which is headquartered in Washington, D.C. WGES was formed on July 17, 1996 in the state of Delaware. WGES is an electric generation supplier ("EGS") licensed by the Commission at Docket No. A-110158 to service residential, commercial, industrial and governmental customers throughout the Commonwealth of Pennsylvania, and first began serving customers at the beginning of 2010, including in PECO's service territory.

2. WGES has participated in various Commission proceedings related to electricity competition issues, including the Commission's Investigation of Pennsylvania's Retail Electricity Markets and the Commission's proceedings regarding Interim Guidelines for Eligible Customer Lists (Docket No. M-2010-2183412) and Net-Metering Policy (Docket No. M-2011-2249441).

3. WGES is represented in the above-captioned matter by the following counsel and all correspondence should be directed to them at the following addresses:

Scott H. DeBroff, Esq.  
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One South Market Square, 12<sup>th</sup> Floor  
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With copies to:

Telemac N. Chryssikos  
Counsel  
Washington Gas Energy Services, Inc.  
Room 319  
101 Constitution Ave., N.W.  
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Melanie Santiago-Mosier  
Director of Regulatory and Legislative Affairs  
Washington Gas Energy Services, Inc.  
13865 Sunrise Valley Drive, Suite 200  
Herndon, Virginia 20171  
Phone: 703-793-7565  
Email: [mmosier@wges.com](mailto:mmosier@wges.com)

WGES' attorneys are authorized to receive all notices and communications regarding this Nunc Pro Tunc Petition.

4. On January 13, 2012, PECO filed its DSP Petition wherein it proposes to establish the terms and conditions under which the Company will procure default service supply, provide default service to non-shopping customers, and recover all costs on a full and current basis for the period from June 1, 2013 through May 31, 2015. The Initial Prehearing Conference before the Administrative Law Judge Dennis J. Buckley is scheduled for Tuesday, March 13, 2012.

5. The Commission's regulations at 52 Pa. Code §§ 5.71-76 establish the standards and requirements for a party to intervene in an action before the Commission. Section 5.72 sets forth the eligibility requirements for a party to intervene, which provides, in pertinent part, as follows:

(a) Persons. A petition to intervene may be filed by a person claiming a right to intervene or an interest of such nature that intervention is necessary or appropriate to the administration of the statute under which the proceeding is brought. The right or interest may be one of the following:

(1) A right conferred by statute of the United States or of the Commonwealth.

(2) An interest which may be directly affected and which is not adequately represented by existing participants, and as to which the

petitioner may be bound by the action of the Commission in the proceeding.

(3) Another interest of such nature that participation of the petitioner may be in the public interest.

52 Pa. Code § 5.72. The eligibility requirements for an interested party to intervene in an action before the Commission is less strict and easier to satisfy than the common law standard for intervention. *Application of Metropolitan Edison Co. for Approval to Construct an Electric Generating Unit Fueled by Natural Gas*, Docket No. A- 110300, 1994 Pa. PUC LEXIS 52 (Order entered Feb. 25, 1994) (citing *William Penn Parking Garage, Inc. v. City of Pittsburgh*, 464 Pa. 168, 346 A.2d 269 (1975)).

6. WGES meets the standards for intervention set forth in 52 Pa. Code § 5.72(a). WGES has an interest that will be directly affected by the Commission's disposition of the Company's DSP Petition. As noted above, through its DSP Petition, PECO is proposing terms and conditions that will have a significant impact to the competitive retail electric market in WGES' service territory for the period of June 1, 2013 through May 31, 2015. In addition, PECO's DSP Petition addresses a number of "market enhancing steps", including opt-in auctions, referral programs, and new and moving customer programs.

7. WGES, as a licensed EGS in PECO's service territory, clearly has a direct and substantial interest in the competitive retail market structure in PECO's service territory. In addition, WGES, like other licensed EGSs, has its own unique business plan to attract and maintain customers in various customer segments. Therefore, the interests of WGES are not adequately represented by any other party.

8. Further, WGES will be bound by the action of the Commission in this proceeding. At the conclusion of this proceeding, the Commission will determine PECO's default service rates and how those rates are structured. As an active EGS in PECO's service territory, WGES will need to compete against the Company's DSP rates and abide by the terms of any market-enhancements approved by the Commission. Therefore, the Commission's determinations in this proceeding will have a direct and substantial impact on WGES and its operations.

9. WGES' participation in this proceeding is in the public interest. WGES is presently active in PECO's service territory serving residential and commercial customers. WGES will provide the Commission with the perspective of an active EGS relative to the issues impacting Pennsylvania's current and future retail electricity market at issue in this proceeding.

10. Based on the foregoing, WGES has substantial interests that will be directly and immediately affected by the Commission's disposition of PECO's DSP Petition and, therefore, meets the requirements of 52 Pa. Code § 5.72(a).

11. WGES notes that the Commission indicated in a notice of PECO's DSP Petition that was published in the Pennsylvania Bulletin that petitions to intervene should be filed on or before February 13, 2012. 42 Pa. Bulletin 642 (Jan. 28, 2012). WGES was not an active participant in PECO's prior DSP proceedings but as WGES has expanded its footprint in Pennsylvania's retail electric markets, it has determined that this is an important proceeding for its operations. The granting of WGES' Petition to Intervene Nunc Pro Tunc will not prejudice

any party because they have filed the Petition to Intervene Nunc Pro Tunc four (4) days past the deadline set by the Commission, and nearly one month prior to the date of the prehearing conference in this proceeding. Further, granting WGES' Petition to Intervene Nunc Pro Tunc will not result in any delay in this proceeding. In addition, granting WGES' Petition to Intervene Nunc Pro Tunc would be in the public interest given their unique perspective on the issues raised in the proceeding, as explained above. Lastly, WGES has spoken to counsel for PECO and is authorized to state that PECO does not object to WGES' filing of its Petition to Intervene Nunc Pro Tunc.

WHEREFORE, for all the foregoing reasons, Washington Gas Energy Services, Inc. respectfully requests that they be permitted to intervene in this proceeding nunc pro tunc.

Respectfully submitted,

RHOADS & SINON LLP

By: 

**Scott H. DeBroff, Esq.**  
Alicia R. Duke, Esq.  
One South Market Square  
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Date: February 17, 2012

*Counsel for Washington Gas Energy Services, Inc.*

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing **“Petition to Intervene Nunc Pro Tunc on behalf of Washington Gas Energy Services, Inc.”**, is being served upon the following persons in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant):

<p>HONORABLE DENNIS J. BUCKLEY ADMINISTRATIVE LAW JUDGE PA PUBLIC UTILITY COMMISSION COMMONWEALTH KEYSTONE BUILDING 400 NORTH STREET, 2<sup>ND</sup> FLOOR EAST P.O. BOX 3265 HARRISBURG, PA 17105-3265</p>	<p>CARRIE B. WRIGHT, ESQUIRE PENNSYLVANIA PUBLIC UTILITY COMMISSION BUREAU OF INVESTIGATION &amp; ENFORCEMENT 400 NORTH STREET, 2<sup>ND</sup> FLOOR WEST P.O. BOX 3265 HARRISBURG, PA 17105-3265</p>
<p>TANYA J. MCCLOSKEY, ESQUIRE CANDIS A. TUNILO, ESQUIRE CHRISTY A. APPLEBY, ESQUIRE OFFICE OF CONSUMER ADVOCATE 555 WALNUT STREET FORUM PLACE, 5<sup>TH</sup> FLOOR HARRISBURG, PA 17101-1923</p>	<p>THOMAS P. GADSDEN, ESQUIRE KENNETH M. KULAK, ESQUIRE BROOKE E. LEACH, ESQUIRE PECO ENERGY COMPANY MORGAN LEWIS &amp; BOCKIUS, LLP 1701 MARKET STREET PHILADELPHIA, PA 19103-2921</p>
<p>ANTHONY E. GAY, ESQUIRE JEANNE J. DWORETZKY, ESQUIRE PECO ASSISTANT GENERAL COUNSEL PECO ENERGY COMPANY 2301 MARKET STREET, S23-1 PHILADELPHIA, PA 19103</p>	<p>ELIZABETH ROSE TRISCARI, ESQUIRE OFFICE OF SMALL BUSINESS ADVOCATE COMMERCE BUILDING, SUITE 1102 300 NORTH SECOND STREET HARRISBURG, PA 17101</p>

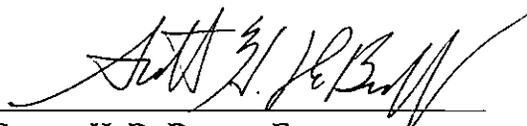
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<p>ANDREW S. TUBBS, ESQUIRE          POST &amp; SCHELL, P.C.          17 NORTH SECOND STREET, 12<sup>TH</sup> FLOOR          HARRISBURG, PA 17101-1601</p> <p>[ COUNSEL FOR PPL ENERGYPLUS]</p>	<p>CHARIS MINCAVAGE, ESQUIRE          ADEOLU A. BAKARE, ESQUIRE          MCNEES WALLACE &amp; NURICK LLC          100 PINE STREET          P.O. BOX 1166          HARRISBURG, PA 17108-1166</p> <p>[COUNSEL FOR PAIEUG]</p>
<p>BRIAN J. KNIPE, ESQUIRE          BUCHANAN INGERSOLL &amp; ROONEY, PC          17 NORTH SECOND STREET, 15<sup>TH</sup> FLOOR          HARRISBURG, PA 17101-1503</p> <p>[COUNSEL FOR FIRSTENERGY SOLUTIONS]</p>	<p>AMY M. KLODOWSKI, ESQUIRE          FIRSTENERGY SOLUTIONS CORP.          800 CABIN HILL DRIVE          GREENSBURG, PA 15601</p> <p>[COUNSEL FOR FIRSTENERGY SOLUTIONS]</p>
<p>CHARLES E. THOMAS III, ESQUIRE          THOMAS LONG NIESEN &amp; KENNARD          212 LOCUST STREET          P.O. BOX 9500          HARRISBURG, PA 17108-9500</p> <p>[COUNSEL FOR NOBLE AMERICAS ENERGY SOLUTIONS LLC]</p>	<p>JEFFREY J. NORTON, ESQUIRE          CARL R. SHULTZ, ESQUIRE          ECKERT, SEAMANS, CHERIN &amp; MELLOTT, LLC          213 MARKET STREET, 8<sup>TH</sup> FLOOR          P.O. BOX 1248          HARRISBURG, PA 17101</p> <p>[COUNSEL FOR GREEN MOUNTAIN ENERGY AND CHOOSEPAWIND]</p>
<p>THU B. TRAN, ESQUIRE          ROBERT W. BALLENGER, ESQUIRE          GEORGE D. GOULD, ESQUIRE          COMMUNITY LEGAL SERVICES, INC.          1424 CHESTNUT STREET          PHILADELPHIA, PA 19102</p> <p>[COUNSEL FOR TURN, ET AL.]</p>	<p>PATRICK M. CICERO, ESQUIRE          HARRY S. GELLER, ESQUIRE          PENNSYLVANIA UTILITY LAW PROJECT          118 LOCUST STREET          HARRISBURG, PA 17101</p> <p>[COUNSEL FOR CAUSE-PA]</p>
<p>DANIEL CLEARFIELD, ESQUIRE          DEANNE M. O'DELL, ESQUIRE          EDWARD LANZA, ESQUIRE          ECKERT SEAMANS CHERIN &amp; MELLOTT LLC          213 MARKET STREET, 8<sup>TH</sup> FLOOR          P.O. BOX 1248          HARRISBURG, PA 17101</p> <p>[COUNSEL FOR DIRECT ENERGY AND RESA]</p>	<p>THOMAS MCCANN MULLOOLY, ESQUIRE          TREVOR D. STILES          FOLEY &amp; LARDNER LLP          777 EAST WISCONSIN AVENUE          MILWAUKEE, WI 53202</p> <p>[COUNSEL FOR EXGEN]</p>

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<p>TORI L. GIESLER, ESQUIRE  FIRSTENERGY SERVICE COMPANY  2800 POTTSVILLE PIKE  P.O. BOX 16001  READING, PA 19612-6001</p> <p>[COUNSEL FOR MET-ED, PENELEC, PENN  POWER AND WEST PENN]</p>	<p>MELANIE J. ELATICH, ESQUIRE  UGI CORPORATION  460 NORTH GULPH ROAD  KING OF PRUSSIA, PA 19406</p> <p>[COUNSEL FOR UGI ENERGY SERVICES, INC.]</p>
<p>TODD S. STEWART, ESQUIRE  HAWKE MCKEON &amp; SNISCAK LLP  P.O. BOX 1778  100 N. TENTH STREET  HARRISBURG, PA 17105-1778</p> <p>[COUNSEL FOR DOMINION RETAIL, INC. AND  INTERSTATE GAS SUPPLY, INC.]</p>	<p>JESSE A. DILLON  PPL SERVICES CORPORATION  OFFICE OF GENERAL COUNSEL  TWO NORTH NINTH STREET  ALLENTOWN, PA 18106</p> <p>[COUNSEL FOR PPL ENERGYPLUS]</p>

Dated: **February 17, 2012**

By:   
**SCOTT H. DEBROFF, ESQUIRE**  
**ALICIA R. DUKE, ESQUIRE**

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