

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

**MAIN BRIEF
OF THE BUREAU OF
INVESTIGATION AND ENFORCEMENT**

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Dated: June 18, 2012

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I. INTRODUCTION AND PROCEDURAL HISTORY

On January 13, 2012, PECO Energy Company (“PECO” or “Company”) filed a Petition for Approval of its Default Service Program (“Petition”) with the Commission seeking approval of its proposed Default Service Program II (“DSP II”) to secure default service supply for the period from June 1, 2013 to May 31, 2015.

The Petition seeks to establish the terms and conditions under which the Company will procure and supply default service, recover the costs of default service, and meet the requirements of the Alternative Energy Portfolio Standards Act (“AEPs”) for the stated period. The Petition further proposes an Opt-In EGS Offer Program and a Customer Referral Program both of which address recommendations made by the Commission in its *Investigation of Pennsylvania’s Retail Electricity Market: Intermediate Work Plan* at Docket No. I-2011-2237952. As a result of that Investigation, the Commission entered Orders on December 16, 2011 as well as more recently on March 1, 2012 which provide guidance on Pennsylvania EDCs’ default service programs, and retail electric competition enhancement programs.

The Bureau of Investigation and Enforcement filed its Notice of Appearance in this case on February 7, 2012. An Initial Prehearing Conference was held on March 13, 2012, at which time the litigation schedule was established. One day of Evidentiary Hearings was held in Harrisburg starting on Tuesday, May

22, 2012. At these hearings I&E offered into evidence I&E Statement 1-R, the testimony and exhibit of its expert witness Scott Granger.

The Bureau of Investigation and Enforcement hereby submits this Main Brief in support of the positions set forth in the testimony and exhibits of its expert witnesses presented in this proceeding.

II. DEFAULT SERVICE PROCUREMENT AND IMPLEMENTATION PLANS

The Bureau of Investigation and Enforcement took no position on these issues.

III. RATE DESIGN AND COST RECOVERY

The Bureau of Investigation and Enforcement took no position on these issues.

IV. RETAIL MARKET ENHANCEMENTS

A. Summary of Position

Regarding retail market enhancements, I&E took a position on only one issue. That issue was cost recovery for implementation of the Opt-In Competitive Offer program. Accordingly, that is the only issue addressed in this section of the brief.

Both the Retail Energy Supply Association (“RESA”) and FirstEnergy Solutions (“FES”) believe that the cost of the Opt-In Auction and other retail enhancement programs should be paid either by default service customers or

through a non-bypassable charge to all customers.¹ I&E respectfully disagrees with this and believes that the suggestions of FES and RESA run contrary to the recommendations set forth in the Commission’s March 1, 2012 order.

B. Recovery of Program Costs for Proposed Retail Market Enhancements

1. EGS Opt-in Competitive Offer Program

In Rebuttal Testimony I&E responded to both FES and RESA’s testimony regarding cost recovery of the Opt-In auction. RESA Witness Kallaher stated that “...RESA believes that the costs of the auction should be paid only by default service customers, or through a non-bypassable charge applied to all customers.”² FES also believes that the costs of the program should be recovered through a non-bypassable surcharge.³ As noted in I&E Statement No. 1-R, the Commission has issued a decision which gives insight regarding who should pay for the cost of implementing the Retail Opt-In Auctions.⁴ In that Order, the Commission states “...having the participating EGSs pay for the auction implementation is a prudent way to recover the auction costs, given that the participating EGSs are the entities reaping the possible customer acquisition benefits resulting from the auction.”⁵

Regarding this issue the Commission further noted that suppliers will be receiving customers through this program in such a way that almost all of the

1 RESA St. No. 2 pp. 16-17. FES Statement No. 1 p. 9.

2 RESA St. 2, p. 17.

3 FES St. 1, p. 9.

4 I&E Statement No. 1-R, p. 5.

5 *Investigation of Pennsylvania’s Retail Electricity Market: Intermediate Work Plan Order Entered March 1, 2012*, p. 78. Docket No. I-2011-2237952.

usual customer acquisition costs are negated. Therefore, because the suppliers are the prime beneficiaries of the program, the suppliers should pick up the associated costs.⁶ The suggestions by RESA and FES seem to indicate that while they want access to these customers through mandated competition, they do not actually want to have to compete for the customers. I&E believes that the Commission has already made a determination on the issue and believes that these types of costs fall squarely on the shoulders of the suppliers. The Commission has also indicated that recovering costs using a method such as the POR discount PECO has proposed would be considered as well as other mechanisms.⁷

I&E did not challenge the cost recovery mechanism found in PECO's original filing, and I&E does not believe the method suggested by FES and RESA should be approved. Therefore, I&E recommends that the ALJ and the Commission reject the recommendations of FES and RESA regarding this issue.

6 *Id.* at 84-85.

7 *Id.* at 85.

V. CONCLUSION

For the reasons set forth above, the Bureau of Investigation and Enforcement respectfully submits that the recommendations of FES and RESA regarding cost recover of the Opt-In Auction program be rejected.

Respectfully submitted,



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Default Service Program :

CERTIFICATE OF SERVICE

I hereby certify that I am serving the foregoing **Main Brief** dated June 18, 2012, either personally, by first class mail, electronic mail, express mail and/or by fax upon the persons listed below, in accordance with the requirements of § 1.54 (relating to service by a party):

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