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July 3, 2012

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2<sup>nd</sup> Floor  
Harrisburg, PA 17120

**VIA HAND DELIVERY**

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


Dear Secretary Chiavetta:

Enclosed for filing with the Pennsylvania Public Utility Commission are the original and nine (9) copies of the Reply Brief of the Philadelphia Area Industrial Energy Users Group ("PAIEUG") in the above-referenced proceeding.

As shown by the attached Certificate of Service, all parties to this proceeding are being duly served. Please date stamp an extra copy of this transmittal letter and Brief, and kindly return them for our filing purposes. Thank you.

Sincerely,

McNEES WALLACE & NURICK LLC

By   
Adeolu A. Bakare

Counsel to the Philadelphia Area Industrial Energy Users Group

AAB/lmc  
Enclosures

c: Administrative Law Judge Dennis J. Buckley (via E-mail and Hand Delivery)  
Certificate of Service

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**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**PETITION OF PECO ENERGY COMPANY :  
FOR APPROVAL OF ITS DEFAULT : DOCKET NO. P-2012-2283641  
SERVICE PROGRAM :**

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**REPLY BRIEF OF THE  
PHILADELPHIA AREA INDUSTRIAL ENERGY USERS GROUP**

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Air Liquide Industrial U.S. LP  
Boeing Company, The  
Building Owners & Managers Association  
of Philadelphia  
Drexel University  
Franklin Mills Associates Limited  
Partnership  
GlaxoSmithKline  
Jefferson Health System

Kimberly-Clark Corporation  
Merck & Co., Inc.  
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Saint Joseph's University  
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Dated: July 3, 2012

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## **I. INTRODUCTION AND PROCEDURAL HISTORY**

On June 18, 2012, the Philadelphia Area Industrial Energy Users Group ("PAIEUG") filed a Main Brief ("M.B.") with the Pennsylvania Public Utility Commission ("PUC" or "Commission") addressing certain aspects of PECO Energy Company's ("PECO" or "Company") proposed Second Default Service Plan ("DSP II"). PAIEUG received main Briefs from: PECO, the Office of Consumer Advocate ("OCA"); the Office of Small Business Advocate ("OSBA"); the Bureau of Investigation and Enforcement ("I&E"); the Retail Energy Supply Association ("RESA"); PPL EnergyPlus, LLC ("PPL EnergyPlus"); the Coalition for Affordable Utility Services & Energy Efficiency in PA ("CAUSE-PA"); FirstEnergy Solutions Corp. ("FES"); Dominion Retail, Inc., and Interstate Gas Supply, Inc. ("Dominion"); Green Mountain Energy Company ("Green Mountain"); and ChoosePAWind.com.

PAIEUG's Main Brief provides a comprehensive review of certain parties' proposed modifications to PECO's DSP II and the problems that would result for Large Commercial and Industrial ("C&I") customers if these modifications were implemented. PAIEUG files this Reply Brief to respond to arguments set forth in the various parties' Main Briefs. Specifically, PAIEUG submits that the following proposals should be rejected as unjust, unreasonable, or inappropriate: (1) RESA's proposal to require PECO to procure Large Commercial & Industrial ("C&I") default service through a request-for-proposal ("RFP") bidding process rather than through the Company's internal PJM Interconnection, L.L.C. ("PJM") account; (2) RESA's proposal to implement a non-bypassable rider to recover certain non-market based ("NMB") transmission costs; (3) PPL EnergyPlus' proposal to implement a non-bypassable rider to recover

Generation Deactivation costs; and (4) RESA's proposal to recover retail market enhancement ("RME") costs from customers rather than electric generation suppliers ("EGS").<sup>1</sup>

## **II. DEFAULT SERVICE PROCUREMENT AND IMPLEMENTATION PLANS**

### **A. Summary of Briefing Party's Position**

PAIEUG responds to arguments set forth by RESA.

### **B. Residential Class Procurement**

#### **1. Term Length of Supply Contracts**

PAIEUG has no position on this issue.

#### **2. RESA's Proposal to Include 10% Spot Purchases for Residential Customers**

PAIEUG has no position on this issue.

#### **3. OCA's Proposal to Continue Block and Spot Supply Procurement for Residential Customers**

PAIEUG has no position on this issue.

### **C. Small Commercial Class Procurement**

PAIEUG has no position on this issue.

### **D. Medium Commercial Class Procurement**

PAIEUG has no position on this issue.

### **E. Large Commercial and Industrial Class Procurement**

Throughout this proceeding, PECO has proposed, and PAIEUG has supported, a change in the way in which PECO would obtain default service for Large C&I customers. Specifically, PECO proposes to shift to an in-house procurement that will reduce the costs to the small number of Large C&I customers remaining on default service. PECO M.B., p. 18. RESA has

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<sup>1</sup> PAIEUG will not respond to every argument contained in all of the parties' Main Briefs, but only those issues necessitating additional response. PAIEUG's decision not to respond to all arguments should not be construed as agreement with the positions of any party on any of the outstanding issues in this proceeding.



been the only party to date that has opposed this modification, and, although RESA has had numerous opportunities to present evidence in support of its opposition, RESA has failed to provide any basis that would discount PECO's efforts to ensure a least cost procurement strategy for this customer class. PAIEUG M.B., p. 6; *see also* PECO M.B., p. 18.

Initially, RESA opposed PECO's position due to concerns regarding PECO's ability to properly allocate default service costs and provide transparent rates for non-shopping customers. RESA M.B., p. 18. As indicated by PECO, however, those concerns are unfounded because PECO's tariff identifies the administrative costs recovered from default service customers, and the Commission reserves authority to review such costs. PECO M.B., p. 18.

As a supplementary argument, RESA now claims that "the statute" requires that competitive procurement take the form of an auction, request for proposal, or bilateral agreement. RESA M.B., 17. Unfortunately, RESA fails to provide any type of citation to such a statute to support this claim. *Id.* On that basis alone, RESA's argument should be rejected. In the event, however, that RESA's failure to provide a citation to any statute was merely an oversight, review of previous PUC precedent disputes RESA's claims. Specifically, PECO correctly observes that the Commission approved, albeit under unique circumstances, Pike County Light and Power Company's ("Pike County") proposal to directly procure supply from a regional transmission organization ("RTO").<sup>2</sup> *See* PECO M.B., p. 19. Even assuming that Pike County is an anomaly, the PUC also permitted West Penn Power Company to serve its Large C&I default service customers via an "in-house" direct PJM procurement. West Penn Power Company Tariff, Supplement No. 200 to Electric-Pa. P. U. C. No. 39, Original Page No. 36-1.

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<sup>2</sup> The Commission approved Pike County's direct procurement of spot-priced supply from the New York Independent System Operator ("NYISO"). *See Petition of Pike County Light & Power Co. for Approval of Its Default Serv. Implementation Plan*, Docket No. P-2011-225204, 2012 WL 1963545 (Pa. P.U.C. May 24, 2012), p. 29.

Moreover, RESA's claims ignore the underlying basis from which PECO's proposal was formed. As discussed more fully in PAIEUG's Main Brief, the reasoning behind PECO's plan stems from the fact that PECO had to utilize in-house procurement during its DSP I to meet a supply shortage resulting from a series of failed RFP bids. PAIEUG M.B., pp. 4-5; *see also* PECO M.B., p. 18. Accordingly, under slightly different circumstances, the PUC has already approved PECO's use of in-house procurement to serve Large C&I default customers.

PECO reasonably proposes to utilize an in-house procurement to provide default service to its Large C&I customers in order to ensure a least cost procurement methodology for this customer class. While RESA opposes this modification, RESA fails to provide any basis for such opposition. Contrary to RESA's claims, PECO's proposal reasonably accounts for the allocation of default service costs, is appropriate under previous PUC precedent, and would be in the interest of the Large C&I customer class. For these reasons, RESA's arguments must be rejected, and PECO's proposed modification should be approved.

### **III. RATE DESIGN AND COST RECOVERY**

#### **A. Summary of Briefing Party's Position**

PAIEUG response to arguments set forth by RESA and PPL EnergyPlus.

#### **B. Reconciliation of Default Service Costs and Revenues**

PAIEUG has no position on this issue.

**C. EDC Recovery of Additional PJM Charges**

**1. RESA Has Failed to Provide Any Evidence that Would Refute the Fact that its NMB Rider Proposal Is an Unjust and Unreasonable Violation of the Competition Act, the Public Utility Code and the PUC's Regulations.**

As the party proposing to transfer cost collection responsibility for certain NMB transmission costs<sup>3</sup> from EGSs to EDCs, RESA bears the burden of proving that such a modification is just, reasonable, and in the public interest. PAIEUG's Main Brief addresses a litany of problems that would arise for Large C&I customers if such a proposal were implemented, including the fact that RESA's proposed NMB Rider is uniquely problematic for Large C&I customers because it lacks a cost collection component, restricts competitive options for Large C&I customers, and fails to address transitional concerns.<sup>4</sup> Not surprisingly, RESA has failed to provide any evidence indicating that the purported benefits of this transfer would outweigh the detrimental costs to Large C&I customers. As such, RESA's proposal should be denied. Moreover, assuming *arguendo*, that the Commission were to approve RESA's proposal to require PECO to collect NMB Transmission Costs from both shopping and non-shopping customers, the Commission must either provide a carve-out for the Large C&I customer class or, at the very least, require that Transmission Costs are collected from Large C&I customers based upon each customer's individual transmission obligation, in order to ensure an appropriate cost causation methodology. *See* PAIEUG M.B., pp. 12-26.

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<sup>3</sup> For purposes of this Reply Brief, the term "Transmission Costs" shall include any Network Integration Transmission Service ("NITS"), Regional Transmission Expansion Plan ("RTEP"), Expansion, Generation Deactivation, Economic Load Response ("ELR"), or other costs to be recovered through RESA's proposed NMB Rider. PAIEUG M.B., p. 11.

<sup>4</sup> Residential and small commercial customers, many of whom continue to receive default service, have different rate designs and load profiles, which may be more compatible with RESA's proposal.

a) ***RESA's Proposal Severely and Uniquely Affects Large C&I Customers By Omitting a Cost Collection Method and Injecting Tremendous Uncertainty as to the Cost Collection Process Available to Large C&I Shopping Customers.***

As fully discussed in PAIEUG's Main Brief, RESA proposes that PECO assume responsibility for collecting Transmission Costs from all customers, whether shopping or not. Currently, PECO only collects Transmission Costs from customers taking default service.<sup>5</sup> For shopping customers, the EGS providing generation service bears responsibility for collecting the associated Transmission Costs. PAIEUG M.B., p. 9. RESA would eliminate the EGS role in Transmission Cost collection by requiring PECO to implement a non-bypassable NMB Rider. While such a Rider would result in a multitude of adverse effects upon Large C&I customers, the most disconcerting is the absence of a cost collection proposal. A proposal to transfer cost collection responsibilities from EGSs to EDCs, without an accompanying proposal to determine how these costs should be collected from customers, cannot be in the public interest. *Id.* at 16.

RESA inappropriately portrays the NMB Rider as a customer-friendly market enhancement, claiming that the Rider will "ensure that the costs paid by these customers for these charges are the actual costs." RESA M.B., p. 32. Additionally, RESA avers that the NMB Rider will "provide appropriate price signals for customers;" however, RESA fails to address how price signals can be sent without a full and complete cost collection methodology. RESA M.B., p. 30.

As a result, RESA's statements indicate a fundamental disconnect between RESA's representation of the purported customer benefits associated with the NMB Rider and the actual

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<sup>5</sup> Interestingly, RESA states that "[u]nlike other EDCs, PECO does not assume responsibility for [transmission] charges for shopping customers." RESA M.B., p. 31. This is a curious characterization of PECO's practices as every other EDC in Pennsylvania also does not assume responsibility for Transmission Costs for shopping customers. *See* PAIEUG M.B., pp. 24-25. The fact that an NMB Rider has been adopted by some Ohio utilities and proposed by the FirstEnergy Pennsylvania utilities hardly justifies RESA's attempt to portray PECO as an outlier. *See* RESA M.B., p. 31, *but cf.*, PAIEUG M.B., pp. 24-25.

harm to Large C&I customers caused by uncertain cost collection. PAIEUG M.B., pp. 13-16. Moreover, the persistent failure to address cost collection raises serious due process concerns as parties have not been afforded an opportunity to comment on, much less review, a cost collection proposal. *Id.* at 15-16. By not providing customers an opportunity to fully review and respond to any and all potential cost collection methodologies, Large C&I customers could be irreparably harmed. Specifically, if the Commission approves RESA's NMB Rider without addressing cost collection issues, the cost collection method eventually applied by PECO could have financial and operational impacts upon Large C&I customers. *Id.* If, assuming *arguendo*, the Commission allows such implementation, it should only be permitted if PECO is also required to collect Transmission Costs from customers based upon each customer's individual transmission obligation. To do otherwise would violate cost causation principles.

As RESA bears the burden of proof with respect to the NMB Rider, the failure to incorporate a cost collection method into the NMB Rider renders the overall recommendation incomplete and prejudices other parties. PAIEUG M.B., pp. 13-15. PAIEUG initially raised the issue of cost collection in Rebuttal Testimony, specifically noting that "RESA fails to discuss how Transmission Costs would be collected from Large C&I customers under the NMB Rider." *See* Rebuttal Testimony of Randolph C. Haines, PAIEUG Statement No. 1 (hereinafter "PAIEUG St. No. 1"), p. 6, *see also* PAIEUG M.B., pp. 13-14. RESA declined the opportunity to respond, despite filing Surrebuttal Testimony addressing many NMB related issues. Direct Testimony of Aundrea Williams, RESA Statement No. 1-SR (hereinafter "RESA St. No. 1-SR"), pp. 12-17. RESA's omission of cost collection details prejudices PAIEUG and other parties by limiting substantive review of the NMB Rider. PAIEUG M.B., p. 15. RESA cannot support its claim that the NMB Rider will charge customers their actual costs because it has not disclosed

how such costs should be determined. *See* RESA M.B., p. 32. This evidentiary gap forecloses effective review of RESA's proposed NMB Rider, denies parties their due process, and consequently exposes Large C&I customers to significant financial and operational harm.

Moreover, it is imperative that Transmission Cost collection occur based upon each customer's individual transmission obligation, as that is the way in which Large C&I shopping customers are currently billed for their transmission costs. PAIEUG M.B., p. 14. Specifically, the PJM one coincident peak ("1-CP") cost collection method allows Large C&I customers to pay Transmission Costs commensurate with cost causation.<sup>6</sup> The total transmission obligation for the PECO zone, and every other EDC zone in the PJM region, is based on the demand of each customer during the 1-CP established by PJM. PAIEUG M.B., p. 9. The 1-CP methodology measures the daily load of all retail customers located within a transmission zone coincident with the annual peak of that transmission zone. *See* PJM Open Access Transmission Tariff, Section 34.1; *see also* PAIEUG M.B., p. 9. Load Serving Entities ("LSEs") – either EDCs serving as default service providers or EGSs – pay for transmission service based on peak transmission service load responsibility within each zone. PAIEUG M.B., p. 9.

With Large C&I customers' advanced metering, direct visibility exists as to each customer's contribution to peak demand. This granularity of information on Large C&I customers' demand in peak periods permits EGSs to offer Large C&I customers transmission products based on their individual transmission obligations during the 1-CP. *See id.* Thus, Large C&I customers may be charged for transmission by an EGS in precisely the same manner they incur transmission costs at PJM. Conversely, PECO charges Transmission Costs for current

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<sup>6</sup> "The 1-CP is the metered peak zonal demand as determined by PJM as set during the highest demand day for each of the PJM zones." PAIEUG M.B., p. 9. For Large C&I shopping customers, the EDC provides the EGS with the customer's 1-CP so that the EGS can collect the customers' transmission costs based upon the customers' individual transmission obligation.

default service customers based on their monthly billed demand, which does not correlate to the PJM 1-CP. PECO Electric Company Tariff, Supplement No. 41 to Electric-Pa. P. U. C. No. 4, Original Page No. 40-A.; *see also* PAIEUG M.B., p. 15. If RESA's proposal is adopted by the Commission, assuming *arguendo*, it is imperative that Large C&I customers continue to be charged for Transmission Costs in the same manner in which these costs are currently collected by their EGSs. To do otherwise (*e.g.*, charge customers for transmission costs based upon their distribution demand) would violate cost causation principles. PAIEUG M.B., p. 14.

Because RESA's proposed NMB Rider omits any cost collection terms, Large C&I customers could, hypothetically, be subject to whatever cost collection system PECO chooses to provide. If PECO's billing system lacks the ability to apply the 1-CP method for cost collection purposes on an individual customer basis or if PECO elects to apply a different cost collection method, Large C&I customers would see inappropriate price signals since the manner in which costs are collected from customers would no longer correspond with the manner in which PJM allocates Transmission Costs to PECO or EGSs.<sup>7</sup> *See* PAIEUG M.B., p. 15. Therefore, contrary to RESA's assertions, charges under the NMB Rider would not reflect the customer's "actual costs." *See* RESA M.B., p. 32, *but cf.* PAIEUG M.B., p. 15.

Accordingly, by failing to provide a cost collection methodology as part of its proposal, much less offer a cost collection methodology based upon cost causation principles, RESA has failed to meet its burden of proving that this proposal is just and reasonable. PAIEUG M.B., p. 14. As such, RESA's proposal must be rejected. Alternatively, if RESA's NMB Rider is approved, the Commission should carve-out Large C&I customers from implementation of the

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<sup>7</sup> For example, if a customer utilizes self-generation to lower its individual 1-CP demand, but is charged Transmission Costs based on the customer's monthly distribution demand, the customer is not receiving an accurate price signal. *See* PAIEUG M.B., p. 14.

Rider or, at minimum, direct PECO to collect Transmission Costs for the Large C&I class based on an individual customers' 1-CP demand

***b) Contrary to the Competition Act, RESA's Proposed NMB Rider Would Re-Bundle Distribution and Transmission Services and Eliminate Competitive Options Currently Available to Large C&I Shopping Customers.***

In recent years, the Large C&I customer class has embraced retail shopping, with 96% of this class load supplied through EGSs in PECO's service territory. PAIEUG M.B., p. 38. The market has developed various products to meet the diverse needs of the Large C&I class and the EGSs that serve them. Considering the success of the Large C&I retail market thus far, it would seem that EGSs should consider the experiences and needs of their most active customers prior to advocating significant policy modifications. The reverse has occurred in this proceeding, as RESA proposes to re-bundle transmission costs and distribution costs without regard for the disruptive effects upon Large C&I customers.

In an attempt to support its proposed NMB Rider, RESA outlines several alleged market flaws, each of which affects Large C&I customers in a unique manner separate and apart from that put forth by RESA. As such, viewing these purported "flaws" in the context of the Large C&I market renders RESA's proposal unjust and unreasonable.

RESA first laments the risk premiums EGSs charge to customers to account for the risk of fixed-price contracts, claiming that EGSs are forced to include these premiums due to the "unknown" status of some transmission costs. RESA M.B., p. 31. Second, RESA argues that EGSs are forced to absorb excess costs in the event that actual incurred Transmission Costs exceed the risk premium placed in such contracts by EGSs. RESA, M.B., p. 32. Finally, RESA argues that any "transitional" issues would be one-time occurrences, thereby limiting the impact on customers. RESA M.B., p. 31. RESA's observations share a common thread in that each



completely ignores the uniquely dynamic Large C&I retail market. With the availability of both fixed-price and pass-through contractual arrangements, the existing market offers transmission products that address each of the concerns raised by RESA with respect to Large C&I customers. PAIEUG M.B., p. 10. Moreover, RESA's proposed NMB Rider would unreasonably constrict the market by eliminating these options. *See* RESA M.B., p. 32. Therefore, in terms of Large C&I accounts, the NMB Rider would not contribute additional market benefits, but would serve only to remove competitive options currently available to Large C&I customers. Contrary to RESA's claims, the transitional issues that arise outweigh any of the purported benefits of the NMB Rider.

RESA's primary argument, that the proposed NMB Rider is necessary to eliminate risk premiums caused by volatile Transmission Costs, ignores the demand for such products among the Large C&I class. In reference to Transmission Costs, RESA claims that "the pricing signal sent to customers is distorted because default service customers are paying the full costs of the charges while shopping customers may or may not pay the full cost depending on an EGS' accuracy in predicting the charges." RESA M.B., p. 31. For Large C&I customers, the pricing signal is not distorted because Large C&I customers under fixed-price arrangements are there by choice. *See* PAIEUG M.B., p. 18. The current market allows Large C&I customers to choose between fixed-price arrangements and pass-through arrangements. *Id.* Large C&I customers that select fixed-price arrangements for Transmission Costs do so because the fixed-price structure offers benefits other than least-cost, such as pricing stability. *See* PAIEUG M.B., pp. 18-19; *see also* PAIEUG St. No. 1, p. 6. As EGSs are not compelled to offer fixed-price arrangements for Transmission Costs, the very existence of the mechanism shows that Large

C&I customers desire the product and are willing to pay the risk premium set by the EGSs in return for price stability. *See* PAIEUG St. No. 1, p. 6.

RESA's argument that the NMB Rider is necessary to address EGS losses from understated risk premiums is similarly misguided because the existing Large C&I market allows EGSs to bypass such risk through a pass-through contract. RESA compares EGSs to EDCs, alleging that EDCs are entitled to full recovery of Transmission Costs, but "EGSs that inaccurately predict these costs do not have the same ability to recover the shortfall from their customers." RESA M.B., p. 32. Again, this statement ignores the availability of pass-through arrangements in the Large C&I retail market. When costs are flowed through a pass-through arrangement, the customer takes on the risk of the volatility of any costs, as the EGS effectively "passes through" the exact charges to the customer. As a result, the EGS avoids the risk of inaccurate projections and fully recovers the actual Transmission Costs incurred by the customer.<sup>8</sup> PAIEUG M.B., p. 10. Inclusion by EGSs of actual PJM charges in future EGS customer contracts on a pass-through basis would eliminate any risk premium issues and fully address any concerns regarding transparency and equity. PECO M.B., pp. 40-41. As an EGS can elect to offer either pass-through or fixed-cost arrangements to Large C&I customers,<sup>9</sup> any

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<sup>8</sup> RESA also notes that an EGS does not have the option to recover inaccurately low cost projections through reconciliation mechanisms utilized by PECO and other EDCs. *See* RESA M.B., p. 32. Although true, it is worth noting that RESA omits the corollary fact that EGSs are not required to refund inaccurately high cost projections, while PECO is statutorily mandated to return over-collected default service procurement costs to customers. *See id.*, *but cf.* 66 Pa. C.S. § 1307(e)(3). In view of the structural *quid pro quo*, RESA's statement that PECO's reconciliation authority creates a competitive advantage in providing default service is erroneous and should be disregarded.

<sup>9</sup> Specifically referencing Generation Deactivation and ELR costs, RESA claims that suppliers "*must* include a premium in their bids to cover the future uncertainty of those costs." RESA M.B., p. 34 *citing* Direct Testimony of Aundrea Williams, RESA Statement No. 1 (hereinafter "RESA St. No. 1, at 19") [Emphasis added]. The testimony referenced to support RESA's assertion, however, more accurately states that suppliers "*may* include a premium in their prices and bids." RESA St. No. 1, at 19 [Emphasis added].

EGS desiring to avoid risk and ensure full cost recovery of Transmission Costs from Large C&I customers already possesses the tools to do so.

Ultimately, RESA's proposed NMB Rider would detrimentally affect Large C&I customers by eliminating the availability of fixed-price arrangements for Transmission Costs and potentially eroding the cost causation benefits of current Large C&I pass-through arrangements. RESA observes that, under the NMB Rider, "all customers will be paying the 'pass through' costs of transmission regardless of whether they are default customers or customers of an EGS." RESA M.B., p. 32. RESA is correct that its proposal would result in a "pass-through" of costs in the sense that this proposal would inappropriately and unreasonably remove the fixed price transmission product from the marketplace for Large C&I customers. RESA is incorrect, however, in suggesting that a true pass-through of costs will occur unless these costs are collected from customers based upon their individual I-CP demand. *See* Section III.C.1.a, *supra*.

In addition, RESA's proposal also accentuates risks of overcharges and double-charges to Large C&I customers without offering a corresponding transitional plan. PAIEUG M.B., pp. 19-21. As explained in PAIEUG's Main Brief, Large C&I customers under both pass-through and fixed-price arrangements are at risk of double charges for Transmission Costs, while customers under fixed-price arrangements face additional risk of overcharges due to embedded risk premiums. *Id.* Moreover, even if the EGSs and PECO try to avoid any overcollections or double-charges, the risk remains on the customer to both confirm that bills are correct, as well as to undertake any actions to correct such charges. *See* PAIEUG, M.B., p. 14; *see also* PAIEUG St. No. 1, p. 5. RESA's abdication of transitional protections contrasts with the Electricity

Generation Customer Choice and Competition Act's ("Competition Act") directive to address transitional issues in a manner "fair" to customers. 66 Pa. C.S. § 2802(8).

To that end, PAIEUG previously proffered a potential solution to alleviate the transitional risks faced by customers with contracts extending beyond the June 1, 2013, implementation date for PECO's DSP II.<sup>10</sup> As a component of PECO's DSP II, the NMB Rider would take effect following expiration of the current DSP I on May 31, 2013. *See* PAIEUG M.B., p. 18. Especially with the complete lack of clear transitional plans or other guidance for EGSs implementing the proposed NMB Rider, additional time may be required to allow customers adequate time to renegotiate long term supply contracts. *See* PAIEUG M.B., pp. 22-23. Grandfathering provisions allowing individual customers to become subject to the NMB Rider only upon expiration of their current EGS contract, would provide a necessary safety net to mitigate transitional overcharges. *See* PAIEUG M.B., p. 23; *see also* PAIEUG St. No. 1, p. 5 (noting that "RESA's proposal omitted a transition plan that would address customers with contracts that would span the June 1, 2013 implementation date.")

As demonstrated above, RESA's alleged market "flaws" are inapplicable to Large C&I customers. Moreover, implementation of RESA's proposed NMB Rider would expose Large C&I customers to unreasonable cost collection methods and transitional overcharges. Accordingly, the Commission should reject the proposed NMB Rider. Alternatively any approved NMB Rider must ensure that Large C&I customers are charged Transmission Costs in accordance with the individual customers' 1-CP demand and incorporate grandfathering provisions to provide appropriate transitional protections.

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<sup>10</sup> While this solution would potentially resolve the transitional issues, PAIEUG's concern regarding cost collection would continue to remain outstanding.

**2. PPL EnergyPlus Has Failed to Provide Any Evidence that Would Refute the Fact that Its Generation Deactivation Rider Proposal Is an Unjust and Unreasonable Violation of the Competition Act, the Public Utility Code, and the PUC's Regulations.**

PPL EnergyPlus proposes a non-bypassable Rider similar to RESA's NMB Rider; however, PPL EnergyPlus restricts its proposal to only Generation Deactivation Costs. As with RESA's proposal, PPL EnergyPlus bears the burden of proving that such a modification is just, reasonable, and appropriately in the public interest. Also similar to RESA, PPL EnergyPlus presents a one-sided proposal to support the Generation Deactivation Rider, ignoring various negative effects upon Large C&I customers.<sup>11</sup> Most notably, PPL EnergyPlus argues that the proposed Generation Deactivation Rider is "appropriate," despite the conspicuous absence of any cost collection details. Continuing the similarities with RESA's proposal, PPL EnergyPlus argues that the Generation Deactivation Rider is required to eliminate risk premiums that EGSs must charge retail customers to account for volatile costs and generally improve competitive markets for customers. Finally, PPL EnergyPlus dismisses transitional concerns, arguing that customers can address such issues directly with their EGSs. These arguments generally ignore the significant financial and operational effects of applying different cost collection methods to Large C&I customers, the variety of market solutions already available to Large C&I customers and EGSs, and the unique challenges of transitioning Large C&I contractual arrangements.<sup>12</sup> Therefore, the Commission should deny PPL EnergyPlus' proposed Generation Deactivation Rider. Assuming, *arguendo*, that the Commission were to approve PPL EnergyPlus' proposal to collect Generation Deactivation costs from shopping and non-shopping customers, the

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<sup>11</sup> Residential and small commercial customers, many of whom continue to receive default service, have different rate designs and load profiles, which may be more compatible with PPL EnergyPlus' proposal.

<sup>12</sup> In recognition of the various overlapping arguments, the entire argument set forth in Section III.C.1, *supra*, applies with equal force to the Generation Deactivation Rider proposed by PPL EnergyPlus.

Commission must provide a carve-out for the Large C&I customer class or, at minimum, modify PPL EnergyPlus' proposal to require collection of Generation Deactivation costs on an individual customer 1-CP basis and incorporate grandfathering provisions.

- a) ***PPL EnergyPlus' Proposal Severely and Uniquely Affects Large C&I Customers By Omitting a Cost Collection Method and Injecting Tremendous Uncertainty as to the Cost Collection Process Available to Large C&I Shopping Customers.***

As explained in Section III.C.1.a, *supra*, PECO currently collects Transmission Costs, including Generation Deactivation costs, only from default service customers, while EGSs collect such costs from their shopping customers. With respect to Generation Deactivation costs, PPL EnergyPlus proposes to transfer cost collection responsibilities from the EGSs to PECO, without first determining how these costs should be collected from customers. For reasons presented in Section III.C.1.a, *supra*, and further discussed below, such a proposal cannot be in the public interest.

PPL EnergyPlus proposes to transfer responsibility for collecting Generation Deactivation costs to PECO to address EGS concerns, but fails to propose a cost collection method, much less address the effects of various cost collection methods upon Large C&I customers. Like RESA, PPL EnergyPlus claims that its Generation Deactivation Rider will "improve the competitive market in PECO's Service territory." PPL EnergyPlus M.B., p. 6. This assertion, that transferring cost collection responsibilities without an established cost collection method would *improve* the competitive market, suggests a fundamental misunderstanding of the actual harm to Large C&I customers caused by uncertain cost collection. *See* Section III.C.1.a, *supra*; *see also* PAIEUG M.B., p. 6. PPL EnergyPlus' failure to identify a cost collection method raises the same due process concerns discussed above in response to RESA's NMB Rider. *See* Section III.C.1.a, *supra*. As a result, if the Commission approves PPL EnergyPlus' Generation

Deactivation Rider without addressing cost collection issues, the cost collection method eventually applied by PECO could have adverse financial and operational impacts upon Large C&I customers. As a result, assuming *arguendo*, that the Commission approves PPL EnergyPlus' proposal, such approval should only be granted if the PUC also requires that PECO collect such costs from customers based upon their individual 1-CP demand.

Without an identified cost collection method, the proposed Generation Deactivation Rider could unreasonably subject Large C&I customers to charges divorced from cost causation principles. As detailed above, Large C&I customers utilize advanced metering, allowing EGSs to charge transmission costs, which may include Generation Deactivation costs, based on the same 1-CP cost collection method used by PJM to assess transmission-related costs. *See* Section III.C.1.a, *supra*. Unfortunately, because PPL EnergyPlus' proposed Generation Deactivation Rider omits any cost collection terms, Large C&I customers could be subject to whatever cost collection system PECO chooses to provide. If PECO's billing system lacks the ability to apply the 1-CP method for cost collection purposes on an individual customer basis or PECO elects to apply a different cost collection method, Large C&I customers would see inappropriate price signals, since the manner in which costs are collected from customers would no longer correspond with the manner in which PJM allocates the costs of the transmission system to PECO or EGSs.<sup>13</sup> *See* PAIEUG M.B., pp. 15, 28, 29. Contrary to PPL EnergyPlus' stated intention to improve the competitive market, a proposal that would not correctly charge Large C&I customers for Generation Deactivation costs based upon an individual 1-CP would erode

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<sup>13</sup> Essentially, Large C&I customers would be required to pay *transmission* charges based on their *distribution* demand, which is a completely unreasonable and arbitrary cost collection method. *See* PAIEUG M.B., pp. 14-15.

cost causation principles and inhibit Large C&I participation in the competitive market.<sup>14</sup> See PAIEUG St. No. 1, p. 6; PAIEUG M.B., p. 15.

Accordingly, by failing to provide a cost collection methodology as part of its proposal, much less offer a cost collection methodology based on cost causation principles, PPL EnergyPlus has failed to meet its burden of proving that this proposal is just and reasonable. PAIEUG M.B., pp. 28, 29. As such, PPL EnergyPlus' proposal must be rejected. Alternatively, if the Commission were to approve the Generation Deactivation Rider, it must ensure that Large C&I customers continue to be charged Generation Deactivation costs on an individual customer 1-CP basis.

***b) Contrary to the Competition Act, PPL EnergyPlus' Generation Deactivation Rider Would Re-Bundle Distribution and Transmission Services and Eliminate Competitive Options Currently Available to Large C&I Shopping Customers.***

PPL EnergyPlus proposes the Generation Deactivation Rider under the auspices of improving competitive markets, but fails to address the fact that the existing Large C&I retail market has already evolved to address the alleged concerns. In attempting to support the Generation Deactivation Rider, PPL EnergyPlus offers conclusory statements without actually analyzing the effects of its proposal upon Large C&I customers. PPL EnergyPlus M.B., pp. 6-9. Like RESA, PPL EnergyPlus ignores the fact that EGSs serving Large C&I customers can presently address any concerns of risk premiums through pass-through arrangements. Conversely, if the Generation Deactivation Rider is approved, Large C&I customers would lose

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<sup>14</sup> The impact of cost collection upon Large C&I operations cannot be understated. Large C&I customers structure operations to control their individual transmission obligation in order to reduce their 1-CP demand. See PAIEUG St. No. 1, p. 6. As a monthly billing demand or per kWh cost collection bear no relation to the 1-CP, customers' peak demand reductions would no longer be reflected in their transmission bills. See *id.*; see also PAIEUG M.B., p. 15.



the benefit of a fixed-price option. Therefore, if the Commission approves the Generation Deactivation Rider, Large C&I customers must be carved out from implementation of the Rider.

The arguments advanced by PPL EnergyPlus in support of the Generation Deactivation Rider are unsupported and contrary to the reality of the Large C&I competitive market. Contrary to established law, PPL EnergyPlus claims that the transfer of cost collection responsibility to PECO is natural and appropriate. PPL EnergyPlus M.B., p. 6. PPL EnergyPlus also argues that numerous benefits will inure to customers upon implementation of the Generation Deactivation Rider, such as eliminated risk premiums and transparent pricing. PPL EnergyPlus, pp. 6-7. As discussed more fully herein, each of these arguments is inapplicable to Large C&I customers. PAIEUG M.B., pp. 27-32.

PPL EnergyPlus erroneously views the Generation Deactivation Rider as a natural evolution of the competitive market developed under the Competition Act. 66 Pa. C.S. § 2802. Referencing Generation Deactivation costs, PPL EnergyPlus proclaims that, "[a]s a policy matter, it is more natural to have them paid by PECO and billed to customers under the proposed NMB Rider." PPL EnergyPlus M.B., p. 9. Further, PPL EnergyPlus claims that "[i]t is appropriate for PECO to recover the costs associated with transmission system upgrades that will benefit PECO's service territory." *Id.* at 6. Neither statement is supported by reference to a Commission statute, regulation, or policy statement. This is not surprising as the Competition Act already establishes that unbundled competitive markets are best served by fully unbundling generation and transmission services and costs. *See* PAIEUG M.B., p. 16; *see also* 66 Pa. C.S. § 2802(13); *id.* § 2804(3). Rebundling transmission-related services such as Generation Deactivation costs with distribution service is not compelled or supported by the Competition Act. *See id.* To the contrary, approval of the Generation Deactivation Rider would subvert the

customer choice principles underlying the Competition Act by eliminating the availability of fixed-price arrangements for Generation Deactivation costs. *See* Section III.C.1.b., *supra*; *see also* PAIEUG M.B., p. 18; *see also* 66 Pa. C.S. 66 § 2807(3.4).

The Generation Deactivation Rider fares no better on equity principles, as PPL EnergyPlus consistently ignores the solutions available through the current market. PPL EnergyPlus argues that the competitive market suffers from unwieldy risk premiums. PPL EnergyPlus M.B., p. 6. As discussed in the context of RESA's proposed NMB Rider, Large C&I customers enjoy access to pass-through and fixed-price arrangements and therefore only pay risk premiums upon election.<sup>15</sup> *See* Section III.C.1.b., *supra*. As such, the fixed-price arrangements and associated risk premiums enrich the competitive market for Large C&I customers. *See* PAIEUG St. No. 1, p. 6; *see also* PAIEUG M.B., pp. 17-18.

In addition to raising the same risk premium arguments as RESA, PPL EnergyPlus acknowledges the availability of pass-through options for some customers, but fails to show how the proposed Generation Deactivation Rider benefits such customers. PPL EnergyPlus claims that customers under pass-through arrangements experience confusion when supply charges fluctuate as a result of Generation Deactivation charges. PPL EnergyPlus, pp. 6-7. PAIEUG makes no representation for whether small commercial customers experience such confusion, but it is abundantly clear that Large C&I customers opting for pass-through arrangements are fully aware of the potential for volatile costs. *See* PAIEUG St. No. 1, p. 6; *see* PPL EnergyPlus M.B., p. 8 (stating that industrial and commercial customers are sophisticated). Moreover, even if the

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<sup>15</sup> PPL EnergyPlus directly countered a statement from PAIEUG's witness arguing that "[c]ontrary to the assertions of PAIEUG, EGSs cannot entirely avoid the risk of the uncertainty of unforeseeable transmission charges via a pass-through mechanism in their retail contracts." PPL EnergyPlus M.B., p. 9. This statement is entirely unsupported; PPL EnergyPlus has failed to offer any evidence that EGSs cannot avoid risk premiums for Large C&I customers merely by collecting Transmission Costs through pass-through arrangements. *Id.*

Generation Deactivation Rider were approved, such customers would still experience the same degree of price volatility as PECO would also most likely administer a pass-through type-arrangement (however, PPL EnergyPlus' failure to address cost collection methodology does not confirm such an arrangement).<sup>16</sup> PECO M.B., p. 40. Finally, any assertion of customer benefits on behalf of PPL EnergyPlus suffers from omission of a cost collection method. Therefore, PPL EnergyPlus has failed to show any benefits flowing to Large C&I customers from adoption of the Generation Deactivation Rider.

Large C&I customers derive no benefits from approval of the Generation Deactivation Rider, but would lose valuable competitive options currently available through the current retail market. As described in detail above, Large C&I customers are disproportionately affected by the elimination of fixed-price arrangements and erosion of cost causative pass-through arrangements that would result from implementation of the Generation Deactivation Rider as proposed by PPL EnergyPlus. *See* Section III.C.1.b, *supra*. The Commission should not allow PPL EnergyPlus to erode the competitive options available to the most active retail shopping class and accordingly, must reject the proposed Generation Deactivation Rider.

***c) PPL Energy Plus' Arguments Regarding Transitional Issues Must Be Rejected as Contrary to the Express Provisions of the Competition Act.***

In addition to the adverse effects described above, PPL EnergyPlus also fails to give due consideration to important transitional issues that would result from implementation of the proposed Generation Deactivation Rider. Throughout the course of this proceeding, PAIEUG

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<sup>16</sup> As stated by PECO, "[w]hile Mr. Alessandrini suggests that such "pass-through" charges can cause customer confusion and frustration because they are not within the control of an EGS (PPL EnergyPlus St. No. 1-SR, p. 3), he fails to explain why the responsibility for addressing any such confusion and frustration should be shifted from EGSs to PECO. PECO M.B., p. 40.

has raised transitional issues affecting Large C&I customers. PPL EnergyPlus acknowledges the potential for transitional overcharges to Large C&I customers, but fails to appreciate the necessity for measured and enforceable mitigation planning. To resolve the transitional risk of overcharge to Large C&I customers, PPL EnergyPlus offers nothing more than platitudes, claiming that EGSs are well-positioned to address any transitional contract issues materializing before or after adoption of the DSP II. PPL EnergyPlus M.B., pp. 8-9. As the Competition Act requires that transition matters be addressed in a manner fair to all customers, the Commission must deny PPL EnergyPlus' proposed Generation Deactivation Rider for failing to implement transitional protections. 66 Pa. C.S. § 2802(8).

PPL EnergyPlus recognizes the potential for transitional issues, but marginalizes the impact of such issues upon Large C&I customers. PPL EnergyPlus asserts that Large C&I customers are sophisticated market participants and can work out transitional issues with their EGS. PPL EnergyPlus M.B., p. 8. PPL EnergyPlus also believes that EGSs and Large C&I customers possess sufficient time to address issues arising prior to the June 1, 2013, implementation of any approved riders and the requisite incentives to address any issues arising thereafterwards. PPL EnergyPlus M.B., pp. 8-9.

Although PAIEUG recognizes the intentions of PPL EnergyPlus, intentions alone cannot satisfy the statutory requirement to provide transitional protections for competitive market initiatives. *See* 66 Pa. C.S. § 2802(8). Implementation of the Generation Deactivation Rider raises important transitional issues for Large C&I customers under pass-through or fixed-price arrangements that must be addressed through sufficiently enforceable protections, such as

grandfathering provisions.<sup>17</sup> PAIEUG M.B., pp. 20-21; *see also* Section III.C.1.b., *supra*. Both sets of customers are at risk of double charges, while customers under fixed price arrangements face additional risk of overcharges due to embedded risk premiums. *Id.* at 20-21. Finally, Large C&I customers will have to monitor bills closely to ensure EGS compliance with renegotiated contracts and pass-through clauses requiring that charges be zeroed out. PAIEUG M.B., p. 30. Most importantly, PPL EnergyPlus has not denied the risk faced by Large C&I customers, but has only asserted that the parties will "work it out." PPL EnergyPlus, M.B., p. 9.

The Commission should not allow PPL EnergyPlus to subvert the intention of the Competition Act by exposing Large C&I customers to adverse and unjust transitional charges. Therefore, PPL EnergyPlus' proposed Generation Deactivation Rider must be denied. Assuming, *arguendo*, that the Commission approves the Generation Deactivation Rider, it must modify PPL EnergyPlus' proposal to provide critical safeguards for Large C&I customers. Any approved Generation Deactivation Rider should carve out Large C&I customers from implementation of the Rider. Alternatively any approved Generation Deactivation Rider must ensure that Large C&I customers are charged Transmission Costs in accordance with the individual customers' 1-CP demand and incorporate grandfathering provisions to provide appropriate transitional protections.

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<sup>17</sup> In addition to PAIEUG's grandfathering recommendation, OSBA proposes an alternative transitional plan, stating that PECO should delay implementation of the NMB Rider for a period of time, perhaps one year. OSBA M.B., p. 9. PPL EnergyPlus interprets its proposal as consistent with the OSBA's recommendation, claiming that the Generation Deactivation Rider would not take effect until the June 1, 2013 implementation date for PECO's DSP II. PPL EnergyPlus M.B., p. 8. As this interpretation would render OSBA's proposal completely superfluous, PAIEUG submits that the OSBA's proposal would in fact delay the effective date of the Generation Deactivation Rider until approximately June 1, 2014. *See* OSBA M.B., p. 9. As such, OSBA's proposal would mitigate transitional overcharges only for customers with contracts expiring on or before June 1, 2014, but implementation of grandfathering provisions would protect all customers from transitional overcharges while gradually phasing in any Rider approved by the Commission. *See id.*, *see also* Section III.C.1.b., *supra*.

**D. Costs Included in the Generation Supply Adjustment Charge**

PAIEUG has no position on this issue.

**E. Ratemaking Treatment of Auction Revenue Rights**

PAIEUG has no position on this issue.

**F. Elimination of Alternative Energy Portfolio Standard Surcharge**

PAIEUG has no position on this issue.

**G. RESA's Proposal for a \$0.005/kWh Distribution Service Cost Recovery Charge Adder to the Price-to-Compare**

In the instant proceeding, RESA has proposed that the PUC should require PECO to implement a \$0.005/kWh Distribution Service Cost Recovery Charge ("DSCRC Adder"), which would recover various default service costs, including RME program costs, from all default service customers.<sup>18</sup> PAIEUG opposes the DSCRC Adder based on its adverse policy implications for competitive market development in Pennsylvania and its extraordinarily inequitable cost recovery structure. PAIEUG M.B., p. 34. Simply put, the DSCRC Adder is an unjust and unreasonable increase to the price of default service. PAIEUG M.B., pp. 33-34. To that end, PAIEUG concurs with PECO, OCA, and OSBA that RESA's proposal would recover excess costs from default service customers, artificially inflate the PTC, and inappropriately refund costs recovered from default service customers to all customers. PAIEUG M.B., p. 32; PECO M.B., p. 48; OCA M.B., p. 49; OSBA M.B., p. 14. To the extent that RME program costs are included as recoverable costs, the DSCRC Adder would also require Large C&I default service customers to pay RME program costs despite being ineligible to participate in the

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<sup>18</sup> PAIEUG notes that Dominion supports RESA's proposal, but offered no additional arguments in support of the DSCRC Adder. Dominion M.B., p. 9. As such, PAIEUG's responses to RESA's arguments apply with equal force to Dominion's brief comments related to the DSCRC Adder. *See id.*

programs and unable to derive direct benefits from the programs. *See* PAIEUG M.B., pp. 37-38; *but cf.* RESA M.B, p. 89.

According to RESA, implementation of the DSCRC Adder would serve the purposes of ensuring that shopping customers are not subsidizing default service customers, recovering costs of RME programs, and incentivizing robust implementation of RME programs by aligning PECO's interests with that of the EGSs. RESA M.B., pp. 38, 40. RESA alleges that certain costs, such as credit security and administrative costs, are under-recovered from default service customers. *Id.* at 38. RESA also proposes the DSCRC as a preferred method for recovering RME program costs. *Id.* at 36. In addition to simply recovering RME program costs, RESA proposes to reward PECO for implementing the RME programs by allowing the Company to retain 10% of the funds collected, with any remaining excess refunded to all ratepayers. *Id.* at 38. As discussed below, this proposal does not comply with public utility law.

First, RESA has failed to provide any evidence indicating that PECO requires additional funds to adequately recover its default service costs from default service customers. RESA M.B., pp. 37-38. As the default service provider, PECO is permitted to recover the costs of procurement pursuant to the terms of its procurement plans; however, such costs may only be collected if they are "reasonable." *Id.* § 2807(e)(3.9); *see also id.* § 1307(a). In response to RESA's proposal to establish the DSCRC Adder, PECO confirmed that the Company is not at risk of under-recovering default service costs. PECO M.B., p. 46 *citing e.g. Barasch v. Pa. PUC*, 493 A.2d 653, 655 (Pa. 1985). PECO contends that the costs identified by RESA as under-recovered are "hypothetical" costs, for which recovery cannot be considered reasonable. PECO M.B., p. 46. Thus, PECO opposes implementation of the DSCRC, indicating that the

Company expects to adequately recover default service charges through existing mechanisms. PECO M.B., p. 47.

Second, recovering RME program costs through the DSCRC Adder would result in unreasonable charges to Large C&I customers. PAIEUG's Main Brief addressed recovery of RME program costs, establishing that Large C&I customers are ineligible for participation in RME programs, derive no benefits from the programs, and therefore should not pay the costs of such programs. PAIEUG M.B., pp. 37-38. This observation relates to any cost recovery mechanism applied to recover RME program costs, including the DSCRC Adder. See PAIEUG M.B., p. 38; see Section V.F., *infra*.

Finally, the sheer magnitude of dollars to be inequitably redistributed under the DSCRC Adder render it inappropriate and contrary to cost-based rates. PECO estimates that the total costs to implement both its DSP II and the proposed RME programs would be approximately \$10 million dollars in total. PECO M.B., p. 47. Yet, if RESA's proposal were implemented, the DSCRC Adder would recover approximately \$70 million from default service customers, including \$3.7 million from the approximately 4% of the Large C&I class load remaining on default service. OCA M.B., p. 49. Previously, the Commission has found that a fully competitive market must include a default service option "designed to avoid distortions in the market." PAIEUG M.B., p. 33. Certainly, collecting \$70 million from default service customers and refunding 86%, *i.e.* \$60 million, to all default service and shopping customers, would be considered a distortion of the market, both in terms of the substantial increase to the PTC and the inequity of issuing refunds to customers that were not responsible for the underlying costs. See OCA M.B., p. 49; see also PAIEUG M.B., p. 33. Moreover, the increased PTC could lead to



ripple effects by encouraging EGSs, who compare their prices to default service prices, to offer higher prices to shopping customers. *See* PAIEUG M.B., p. 33.

RESA's proposed DSCRC Adder is directly contrary to the Public Utility Code, as it is unjust, unreasonable, and precisely the opposite of a "least cost over time" procurement process. There is no implicit approval of such a device hidden in the Commission's regulations. The DSCRC Adder would inappropriately increase default service rates to further EGS initiatives and violate basic cost causation principles, including collecting RME program costs from Large C&I customers that are ineligible to participate in such programs. Accordingly, the DSCRC Adder must be rejected by the Commission. Alternatively, if RESA's proposal is approved, the Commission must ensure that customers ineligible to participate in RME programs are not allocated RME program costs through the DSCRC Adder.

#### **IV. RETAIL MARKET ENHANCEMENTS**

##### **A. Summary of Briefing Party's Position**

For purposes of this Reply Brief, PAIEUG's comments are limited to a clarification with regards to RESA's Main Brief.

##### **B. EGS Opt-In Competitive Offer Program**

###### **1. Customer Eligibility (CAP issues to be discussed in Section IV.D)**

PAIEUG has no position on this issue.

###### **2. Composition of Product Offer**

PAIEUG has no position on this issue.

###### **3. Customer Participation Cap**

PAIEUG has no position on this issue.

###### **4. Supplier Participation Load Cap**

PAIEUG has no position on this issue.

**5. Customer Options on Product Expiration and Notice Requirements**

PAIEUG has no position on this issue.

**6. Structure of Opt-In Auction – Sealed-Bid Format Versus Descending Price Clock Auction**

PAIEUG has no position on this issue.

**7. PECO's Proposed Application Process and EGS Terms and Conditions**

PAIEUG has no position on this issue.

**C. EGS Standard Offer Program**

**1. Customer Eligibility (CAP issues to be discussed in Section IV.D)**

PAIEUG has no position on this issue.

**2. Composition of Product Offer**

PAIEUG has no position on this issue.

**3. Customer Options Upon Product Expiration**

PAIEUG has no position on this issue.

**4. Types of Customer Calls Eligible for Presentation of Referral Program**

PAIEUG has no position on this issue.

**5. Commencement Date of the EGS Standard Offer Program**

PAIEUG has no position on this issue.

**6. PECO's Proposed Application Process and EGS Terms and Conditions**

PAIEUG has no position on this issue.

**D. Participation By Low-Income Customers In Proposed Retail Market Enhancements**

PAIEUG has no position on this issue.

**E. Additional Proposed Retail Market Enhancements**

**1. Time-of-Use Offering**

PAIEUG has no position on this issue.

**2. New/Moving Customer Referral Program**

PAIEUG has no position on this issue.

**3. Referral of PECO Wind Customers**

PAIEUG has no position on this issue.

**4. Seamless Moves**

PAIEUG has no position on this issue.

**F. Recovery of Program Costs for Proposed Retail Market Enhancements<sup>19</sup>**

PECO proposes to recover RME costs from EGSs, either specifically from EGSs participating in a program or generally through a discount on EGS purchase of receivables. PECO M.B, p. 72. PAIEUG concurs with PECO's proposal, and opposes any attempt to recover RME program costs from Large C&I customers. PAIEUG M.B., p. 36. To that end, PAIEUG notes that RESA's Main Brief repeatedly recommends that PECO recover RME program costs from "all customers." RESA M.B., p. 91, 94. As a point of clarification, PAIEUG submits that RESA had previously indicated that "all customers" does not include customers ineligible to participate in the RME programs. RESA M.B., p. 91, *but cf.* PAIEUG M.B. p. 37 *citing* Surrebutttal Testimony of Christopher Kallaher, RESA Statement No. 2-SR (hereinafter "RESA St. No. 2-SR"), p. 26-27. If the Commission interprets the language in RESA's Main Brief as a change in position from the clarification offered in RESA's Surrebutttal Testimony, PAIEUG submits that RME program costs must not be recovered from customers receiving no direct

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<sup>19</sup> The foregoing discussion addressing PECO's proposed RME programs is limited to general cost recovery issues and therefore applies with equal force to each RME program proposed by PECO.

benefits from these programs.<sup>20</sup> PAIEUG M.B., p. 37. As established in PAIEUG's Main Brief, Large C&I customers are ineligible to participate in PECO's proposed RME programs and therefore, the Commission should reject any proposal to collect RME program costs from Large C&I customers. PAIEUG M.B., p. 38.

**1. EGS Opt-In Competitive Offer Program**

The position of PAIEUG is discussed in Section IV.F., *supra*.

**2. EGS Standard Offer Program**

The position of PAIEUG is discussed in Section IV.F., *supra*.

**3. Other Enhancements**

The position of PAIEUG is discussed in Section IV.F., *supra*.

**V. OTHER ISSUES**

None.

**VI. CONCLUSION**

**WHEREFORE**, the Philadelphia Area Industrial Energy Users Group respectfully requests that the Pennsylvania Public Utility Commission:

- (1) Adopt PECO's proposal to eliminate the RFP bidding process for Large C&I default service customers and allow PECO to procure default service supply for Large C&I customers directly through the PJM energy markets;
- (2) Deny RESA's request to allow for the collection of non-market based transmission costs through a non-bypassable rider, particularly from Large Commercial and Industrial customers;
- (3) If RESA's proposal is approved, require that the charge for NMB Transmission costs be based on the individual transmission obligation for Large Commercial and Industrial customers during the 1-CP;

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<sup>20</sup> As discussed above, this observation relates to any cost recovery mechanism applied to recover RME program costs, including the DSCRC Adder. *See* Section III.G, *supra*.

- (4) Deny PPL EnergyPlus' request to allow for the collection of Generation Deactivation costs through a non-bypassable rider, particularly from Large Commercial and Industrial customers;
- (5) If PPL EnergyPlus' proposal is approved, require that the charge for Generation Deactivation costs be based on the individual transmission obligation for Large Commercial and Industrial customers during the 1-CP;
- (6) Deny RESA's proposal for the collection of a \$0.005/kWh DSCRC Adder from all default service customers;
- (7) Approve PECO's proposal to collect RME program costs from EGSs through a discount on purchased receivables;
- (8) If PECO's proposal is not approved, ensure that any collection of RME program costs from customers does not include those customer classes ineligible to participate or unable to benefit from the RME programs; and
- (9) Grant any additional relief deemed appropriate and consistent with the above recommendations.

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Dated: July 3, 2012

**CERTIFICATE OF SERVICE**

I hereby certify that I am this day serving a true copy of the foregoing document upon the participants listed below in accordance with the requirements of Section 1.54 (relating to service by a participant).

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Dated this 3<sup>rd</sup> day of July, 2012, in Harrisburg, Pennsylvania.