

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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April 21, 2016

Rosemary Chiavetta, Secretary  
PA Public Utility Commission  
Commonwealth Keystone Bldg.  
400 North Street  
Harrisburg, PA 17120

Re: Petition of PECO Energy Company  
For Approval of its Default Service Program for the  
Period from June 1, 2017 through May 31, 2019  
Docket No. P-2016-2534980

Dear Secretary Chiavetta:

Attached for electronic filing please find the Office of Consumer Advocate's Prehearing Memorandum in the above-referenced proceeding.

Copies have been served per the attached Certificate of Service.

Respectfully submitted,

Handwritten signature of Candis A. Tunilo in cursive.

Candis A. Tunilo  
Assistant Consumer Advocate  
PA Attorney I.D. # 89891

Attachment

cc: Honorable Cynthia Williams Fordham, ALJ  
Certificate of Service

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BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of PECO Energy Company for	:	
Approval of its Default Service Program	:	
For the Period from June 1, 2017 through	:	P-2016-2534980
May 31, 2019	:	

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PREHEARING MEMORANDUM  
OF THE  
OFFICE OF CONSUMER ADVOCATE

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Pursuant to Section 333 of the Public Utility Code, 66 Pa. C.S. § 333, and in response to the April 12, 2016 Prehearing Conference Order issued in the above-captioned matter, the Office of Consumer Advocate (OCA) provides the following information:

**I. INTRODUCTION**

On March 17, 2016, PECO Energy Company (PECO or the Company) filed its Petition (Petition) with the Pennsylvania Public Utility Commission (Commission) seeking approval of its default service program (DSP IV or Plan) for the period June 1, 2017 through May 31, 2019.

The Petition was assigned to the Office of Administrative Law Judge and was further assigned to Administrative Law Judge Cynthia Williams Fordham for investigation and the scheduling of hearings. On April 12, 2016, ALJ Fordham issued a Prehearing Conference Order indicating that an Initial Prehearing Conference was scheduled for April 22, 2016. This Order also detailed the parties' obligations with respect to the Prehearing Conference.

On April 13, 2016, the OCA filed a Notice of Intervention and Public Statement and an Answer in response to the Company's Petition. The OCA submits this Prehearing Memorandum in accord with the Prehearing Conference Order in this matter.

## II. ISSUES AND SUB-ISSUES

Based upon a preliminary analysis of the Company's Petition, the OCA has compiled a list of issues that it anticipates will be included in its investigation of DSP IV. It is anticipated that other issues could arise and may be pursued as discovery proceeds.

The OCA has identified several issues that may require further review as follows:

- Procurement Classes, Program Term, and Supply Portfolio: The OCA will examine the Company's proposal to continue, the basic procurement strategy used during DSP III for residential customers, consisting of a blend of laddered one-year and two-year full requirements contracts. These purchases will comprise approximately 96% of PECO's purchases. The remaining four percent (4%) of the default service supply portfolio will consist of a mix of long-term products of five years (approximately 3%) and spot market purchases (approximately 1%). The OCA will further examine the reasonableness of a two year plan at this time.
- Competitive Bid Solicitation Process and Independent Evaluator: The OCA will examine the Company's proposed plan to solicit bids for default service supply that would extend beyond the DSP IV term to avoid problems associated with procuring significant amounts of supply at a single point in time when prices may be the highest. PECO proposes to again use NERA as the independent third-party evaluator. The Request for Proposal (RFP) would require that no supplier be permitted to provide more than fifty percent (50%) of the default service supply for any one of PECO's procurement classes.
- Supplier Master Agreement: The OCA will review the Company's Supplier Master Agreement to ensure its compliance with the Public Utility Code and to ensure that it does no harm to default service customers or the retail competitive market.
- AEPS: The Company proposes to continue to satisfy its Alternative Energy Portfolio Standards Act, 73 P.S. § 1643.1 *et seq.* (AEPS or AEPS Act), obligations by requiring each full requirements default service supplier to transfer Tier I and Tier II alternative energy credits (AECs) to PECO. The AECs will correspond to PECO's obligations associated with the amount of default service load served by that supplier. In addition, PECO proposes to continue to allocate AECs obtained through its AEC procurements to suppliers in accordance with the peak load of each customer class and the percentage of load served by each supplier. PECO will use its AEC inventory to meet AEPS obligations not met by fixed price full requirements suppliers and procure additional AECs, if necessary, through PECO's Tier I and Tier II "balancing" procurements. The OCA will examine the Company's proposal to ensure that ratepayers continue to receive these services at just and reasonable rates.

- Rate Design: PECO proposes to maintain the same rate design approved in DSP III for residential customers. PECO requests full and current cost recovery of all DSP IV costs incurred. The OCA will examine PECO's residential rate design to help promote price stability and to ensure continued compliance with the Public Utility Code.
- Standard Offer Referral Program: The Company proposes to continue its Standard Offer Program (SOP) from DSP III. The SOP is a retail market enhancement, wherein certain customers that call PECO are offered the opportunity to hear about a special offer to switch to a competitive electric generation supplier (EGS) for generation service. EGSs that participate in this program must meet certain program requirements; including offering a twelve-month fixed price that is seven percent (7%) below PECO's default service rate at the time of the offer. The Company further proposes to recover SOP costs through an EGS participant fee of \$30 per enrolled customer, with any remaining costs recovered in the following manner: (1) fifty percent (50%) from EGSs through a 0.2% Purchase of Receivables discount; and (2) fifty percent (50%) from residential and small commercial default service via the Generation Supply Adjustment rider (GSA). The OCA will examine the SOP and the costs that may arise from the continuation of such a referral program to ensure that such a program is still reasonable, cost-justified, and that the costs are allocated appropriately.

### III. WITNESSES

The OCA intends to present the direct, rebuttal, and surrebuttal testimony, as may be necessary, of its witnesses. The OCA's witnesses will present testimony in written form and may also attach various exhibits, documents, and explanatory information, which will assist in the presentation of the OCA's case. In order to expedite the resolution of this proceeding, the OCA requests that copies of all discovery requests, testimony and responses to discovery requests be mailed directly to the OCA's witnesses at the below addresses, as well as mailing a copy to counsel for the OCA.

Dr. Serhan Ogur  
Dr. Steven L. Estomin  
Exeter Associates, Inc.  
Suite 300  
10480 Little Patuxent Parkway  
Columbia, MD 21044  
E-mail: [sogur@exeterassociates.com](mailto:sogur@exeterassociates.com)  
[sestomin@exeterassociates.com](mailto:sestomin@exeterassociates.com)

Barbara Alexander  
Consumer Affairs Consultant  
83 Wedgewood Drive  
Winthrop, ME 04364  
E-mail: [barbalex@ctel.net](mailto:barbalex@ctel.net)

The OCA specifically reserves the right to call additional witnesses, as necessary. As soon as the OCA has determined whether an additional witness or witnesses will be necessary for any portion of its case, the OCA will promptly notify Administrative Law Judge Fordham and all parties of record.

#### **IV. SERVICE ON OCA**

The OCA will be represented in this case by Senior Assistant Consumer Advocate Aron J. Beatty and Assistant Consumer Advocate Candis A. Tunilo. Two copies of all documents should be served on the OCA as follows:

Candis A. Tunilo  
Assistant Consumer Advocate  
Office of Consumer Advocate  
555 Walnut St., 5<sup>th</sup> Floor, Forum Place  
Harrisburg, PA 17101-1923  
Telephone: (717) 783-5048  
Fax: (717) 783-7152  
Email: [ctunilo@paoca.org](mailto:ctunilo@paoca.org)

As a courtesy, the OCA requests that all electronic correspondence be additionally copied to Aron J. Beatty ([abeatty@paoca.org](mailto:abeatty@paoca.org)) and Rebecca L. Nace ([rnace@paoca.org](mailto:rnace@paoca.org)).

#### **V. DISCOVERY**

Because the time period for discovery and preparation of testimony is limited, the OCA supports a shortened discovery response time in this proceeding, consistent with the modifications proposed by the Company and approved in numerous other proceedings before the

Commission. The parties have agreed to the following modifications to the discovery regulations in this proceeding:

- A. Answers to written interrogatories be served in-hand within ten (10) calendar days of service of the interrogatories.
- B. Objections to interrogatories be communicated orally within three (3) days of service; unresolved objections be served to the ALJ in writing within five (5) days of service of interrogatories.
- C. Motions to dismiss objections and/or direct the answering of interrogatories be filed within three (3) days of service of written objections.
- D. Answers to motions to dismiss objections and/or direct the answering of interrogatories be filed within three (3) days of service of such motions.
- E. Responses to requests for document production, entry for inspection, or other purposes be served in-hand within ten (10) calendar days.
- F. Requests for admission be deemed admitted unless answered within ten (10) days or objected to within five (5) days of service
- G. When an interrogatory, request for production, request for admission or motion is served after 12:00 p.m. on a Friday or the day before a holiday, the appropriate response period is deemed to start on the next business day.
- H. Interrogatories, requests for production and requests for admissions that are objected to but which are not made the subject of a motion to compel will be deemed withdrawn.

- I. Pursuant to 52 Pa. Code §5.341(b), neither discovery requests nor responses thereto are to be served on the Commission or the Administrative Law Judge, although a certificate of service may be filed with the Commission's Secretary.
- J. Discovery requests, motions to compel and responses are to be served electronically as well as on paper.

**VI. PROPOSED SCHEDULE**

The OCA agrees to the schedule proposed by the Company, which is as follows:

June 3, 2016	Other Parties' Direct Testimony Due
June 24, 2016	Rebuttal Testimony Due
July 8, 2016	Surrebuttal Testimony Due
July 14-15, 2016	Oral Rejoinder and Hearings
August 5, 2016	Initial Briefs
August 19, 2016	Reply Briefs
September 30, 2016	Recommended Decision
December 8, 2016	Commission Order

**VII. PUBLIC INPUT HEARINGS**

At present, the OCA has not received a request for a public input hearing. The OCA will promptly notify ALJ Fordham and the parties and request a public input hearing should circumstances warrant.

## VIII. SETTLEMENT

At present, settlement discussions have not been scheduled. The OCA will participate fully in settlement negotiations at the appropriate time.

Respectfully Submitted,



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PA Attorney I.D. # 86625  
E-Mail: [ABeatty@paoca.org](mailto:ABeatty@paoca.org)

Counsel for:  
Tanya J. McCloskey  
Acting Consumer Advocate

Office of Consumer Advocate  
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Phone: (717) 783-5048  
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Dated: April 21, 2016  
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BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of PECO Energy Company	:	
For Approval of its Default Service	:	
Program for the Period Service Plan	:	Docket No. P-2016-2534980
For the Period from June 1, 2017 Through	:	
May 31, 2019	:	

I hereby certify that I have this day served a true copy of the following documents, the Office of Consumer Advocate's Prehearing Memorandum, 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 21<sup>st</sup> day of April 2016.

SERVICE BY HAND DELIVERY and FIRST CLASS MAIL

Phillip C. Kirchner, Esquire  
Bureau of Investigation & Enforcement  
400 North Street  
Harrisburg, PA 17120

SERVICE BY E-MAIL and FIRST CLASS MAIL

Romulo L. Diaz, Jr., Esquire  
W. Craig Williams, Esquire  
Exelon Business Services Company  
2301 Market Street, S23-1  
Philadelphia, PA 19101-8699

Elizabeth Rose Triscari, Esquire  
Office of Small Business Advocate  
300 North Second Street, Suite 202,  
Harrisburg, PA 17101

Thomas P. Gadsden, Esquire  
Kenneth M. Kulak, Esquire  
Brooke E. McGlinn, Esquire  
Morgan, Lewis & Bockius  
1701 Market Street  
Philadelphia, PA 19103  
*PECO Energy*

Charis Mincavage, Esquire  
Adeolu A. Bakare, Esquire  
Alessandra L. Hylander, Esquire  
McNees, Wallace & Nurick LLC  
100 Pine Street  
P.O. Box 1166  
Harrisburg, PA 17108-1166  
*PAIEUG*

Daniel Clearfield, Esquire  
Deanne M. O'Dell, Esquire  
Sarah C. Stoner, Esquire  
Eckert Seamans Cherin & Mellot, LLC  
213 Market Street, 8th Floor  
P.O.Box 1248  
Harrisburg, PA 17101  
*RESA/ Direct Energy*

Patrick M. Cicero, Esquire  
Elizabeth Marx, Esquire  
Joline Price, Esquire  
PA Utility Law Project  
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*CAUSE-PA*



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