

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
DOCKET NO. P-2008-  
PETITION OF PECO ENERGY COMPANY  
FOR APPROVAL OF ITS DEFAULT SERVICE PROGRAM AND  
RATE MITIGATION PLAN**

**VOLUME 1 OF 3**

**COVER LETTER**

**PETITION**

**PECO STATEMENT NO. 1                    TESTIMONY OF RICHARD G. WEBSTER, JR.**

**PECO STATEMENT NO. 2                    TESTIMONY OF WILLIAM J. PATERER**

**PECO EXHIBIT WJP-1:                    RESIDENTIAL PROCUREMENT CLASS  
PECO EXHIBIT WJP-2:                    SMALL COMMERCIAL PROCUREMENT CLASS  
PECO EXHIBIT WJP-3:                    MEDIUM COMMERCIAL PROCUREMENT  
CLASS**

**PECO STATEMENT NO. 3                    TESTIMONY OF SCOTT G. FISHER**

**PECO EXHIBIT SGF-1:                    COMPARATIVE HISTORICAL SWITCHING  
RATES FOR RESIDENTIAL AND SMALL NON-  
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**PECO EXHIBIT SGF-2:                    PARTICIPATION LEVELS AND COMPETITION IN  
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**PECO EXHIBIT SGF-5:                    BREAKDOWNS OF ADJUSTED WINNING BID  
PRICES**



An Exelon Company

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September 10, 2008

**BY HAND DELIVERY**

Mr. James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
Harrisburg, PA 17120

**Re: Petition of PECO Energy Company for Approval of Its Default Service Program and Rate Mitigation Plan – Docket No. P-**

Dear Secretary McNulty:

Enclosed please find an original and eight copies of the Petition of PECO Energy Company for Approval of Its Default Service Program and Rate Mitigation Plan. Included with the Petition are:

1. PECO Statement No. 1 - Direct Testimony of Richard G. Webster, Jr.;
2. PECO Statement No. 2 - Direct Testimony William J. Patterer;
3. PECO Statement No. 3 - Direct Testimony Scott G. Fisher;
4. PECO Statement No. 4 - Direct Testimony Chantale LaCasse, Ph.D.;
5. PECO Statement No. 5 - Direct Testimony John J. McCawley;
6. PECO Statement No. 6 - Direct Testimony Alan B. Cohn;
7. PECO Statement No. 7 - Direct Testimony Manus J. McHugh.

If you have any questions regarding this filing, please do not hesitate to contact me at 215-841-5777.

Sincerely,

A handwritten signature in black ink, appearing to read "R Webster Jr", written over a horizontal line.

Richard G. Webster, Jr.  
Director  
Regulatory Affairs

cc: Certificate of Service  
Commissioner James H. Cawley, Chairman  
Commissioner Tyrone J. Christy, Vice Chairman  
Commissioner Wayne Gardner  
Commissioner Kim Pizzingrilli  
Commissioner Robert F. Powelson

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**PETITION OF PECO ENERGY                   :**  
**COMPANY FOR APPROVAL OF ITS           :**       **Docket No. P-**  
**DEFAULT SERVICE PROGRAM AND       :**  
**RATE MITIGATION PLAN                   :**

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served copies of the Petition of PECO Energy Company for Approval of its Default Service Program and Rate Mitigation Plan on the following persons and in the manner as set forth below, in accordance with the requirements of 52 Pa. Code § 1.54 and 52 Pa. Code § 54.185(b):

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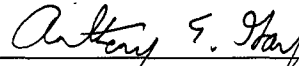
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Dated: September 10, 2008

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**PETITION OF PECO ENERGY COMPANY :  
FOR APPROVAL OF ITS DEFAULT : DOCKET NO. P-  
SERVICE PROGRAM AND RATE :  
MITIGATION PLAN :**

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**PETITION OF PECO ENERGY COMPANY**

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PECO Energy Company (“PECO” or the “Company”), pursuant to 66 Pa. C. S. § 2807(e) of the Public Utility Code, the Default Service Regulations<sup>1</sup> of the Pennsylvania Public Utility Commission (the “Commission”), and the Commission’s Final Policy Statement<sup>2</sup> on Default Service, hereby petitions the Commission for approval of its initial Default Service Program (the “Program”) and its Rate Mitigation Plan as set forth herein. PECO files this Petition in accordance with its responsibilities as the Default Service Provider (“DSP”) for its certificated service territory after December 31, 2010, following the end of its existing capped generation rates. PECO requests that the Commission: (1) approve PECO’s proposed Program, including its Default Service Procurement Plan and Implementation Plan (the “Plan”) for default service supply, through solicitation of competitive bids, for all PECO customers who do not take generation service from an alternative electric generation supplier (“EGS”) or who contract for energy with an EGS which is not delivered; (2) approve PECO’s proposed rate design and tariffs

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<sup>1</sup> 52 Pa. Code §§ 54.181-54.189; *see also Rulemaking Re Electric Distribution Companies’ Obligation to Serve Retail Customers at the Conclusion of the Transition Period Pursuant To 66 Pa.C.S. § 2807(e)(2)*, Docket No. L-00040169 (“Final Rulemaking Order”).

<sup>2</sup> 52 Pa. Code §§ 69.1801-1817; *see also Default Service and Retail Electric Markets*, Docket No. M-00072009 (“Policy Statement”).

for default generation service after December 31, 2010, including recovery of all of PECO's costs associated with the provision of default service; and (3) approve PECO's proposed competitively neutral Market Rate Transition Deferral Plan for residential and small business customers as part of its comprehensive Rate Mitigation Plan.

This is PECO's first proposed program for default service under Pennsylvania's Electricity Generation Customer Choice and Competition Act, 66 Pa. C.S. §§ 2801-2812 (the "Competition Act"). Consistent with the Competition Act, the Commission's regulations and the Policy Statement, PECO's Program and Rate Mitigation Plan are designed to ensure that default service customers have access to a reliable supply of generation at prevailing market prices, with a transition from PECO's existing rate caps to generation rates based on market prices for electricity. PECO therefore requests that the Commission approve this Program and the Rate Mitigation Plan as requested herein and grant all other approvals necessary so that PECO can begin implementation and its customers can benefit from PECO's competitive procurement strategies, new rate designs and customer protections.

## I. INTRODUCTION

1. PECO is a corporation organized and existing under the laws of the Commonwealth of Pennsylvania with its principal office in Philadelphia, Pennsylvania. PECO provides electric delivery service to approximately 1.6 million customers.

2. As a Pennsylvania electric distribution company ("EDC"), as defined in Section 2803 of the Public Utility Code (66 Pa. C.S. § 2803), PECO serves as provider-of-last-resort ("POLR") to electric customers within its service territory. In accordance with its POLR obligations, PECO provides electric generation service to those customers who do not select an EGS or who return to default service after being served by an EGS that becomes unable or

unwilling to serve. Currently, PECO provides POLR service to 1.4 million customers at fixed rates that are capped through December 31, 2010 at levels specified in settlement agreements approved by this Commission in 1998 and 2000.<sup>3</sup>

3. PECO obtains generation supply to meet its POLR obligations through a power-purchase agreement between PECO and its affiliate, Exelon Generation. As with the fixed rates established under the Competition Act and the orders of this Commission, PECO's contract for generation supply with Exelon Generation expires on December 31, 2010.

4. The Competition Act addresses the obligations of PECO and other EDCs at the end of an EDC's transition period. Section 2807(e) provides:

(e) **Obligation to serve.**--An electric distribution company's obligation to provide electric service following implementation of restructuring and the choice of alternative generation by a customer is revised as follows:

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(3) If a customer contracts for electric energy and it is not delivered or if a customer does not choose an alternative electric generation supplier, the electric distribution company or commission-approved alternative supplier shall acquire electric energy at prevailing market prices to serve that customer and shall recover fully all reasonable costs.

5. The Default Service Regulations and the Policy Statement implement the requirements of Section 2807(e)(3). Under the Default Service Regulations, PECO will become the DSP for its service territory at the end of its transition period and continue its responsibilities

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<sup>3</sup> See *Application of PECO Energy Company, Pursuant to Chapters 11, 19, 21, 22, and 28 of the Public Utility Code for Approval of (1) a Plan of Corporate Restructuring, Including the Creation of a Holding Company and (2) the Merger of the Newly Formed Holding Company and Unicom Corporation*, Docket No. A-110550F0147 (Order entered June 22, 2000); *Application of PECO Energy Company for Approval of its Restructuring Plan Under Section 2806 of the Public Utility Code, et al.*, Docket No. R-000973953 and P-00971265 (Order entered May 3, 1998).

to serve all customers who do not choose an EGS or who contract for energy with an EGS which is not delivered. *See* 52 Pa. Code § 54.183(a).

6. Pursuant to the Commission's Default Service Regulations, PECO is required to file a default service program that includes, *inter alia*: (1) a default service procurement plan, which sets forth PECO's strategy for acquiring energy at prevailing market prices to meet its DSP obligations and complying with Pennsylvania's Alternative Energy Portfolio Standards Act, 73 Pa. C.S. § 1643.1 *et seq.* ("AEPS" or "AEPS Act"); (2) an implementation plan identifying the schedule and other details of PECO's proposed competitive procurements for default supply; and (3) a rate design plan to recover all reasonable costs of default service, which includes rates, rules and conditions of service and revisions to its tariff. 52 Pa. Code § 54.185.

7. In promulgating the Default Service Regulations and Policy Statement, the Commission established significant requirements and provided guidance for DSPs in designing a default service program. The Commission's requirements and guidance include:

- Defining "prevailing market price" as "the price that is available in the wholesale market at particular points in time for electric generation supply." (52 Pa. Code § 54.181);
- Providing that "[e]lectric generation supply shall be acquired by competitive bid solicitation processes, spot market energy purchases, or a combination of both." (52 Pa. Code § 54.186(b)(4));
- Determining that a DSP's first default service program shall be for a period of 2 to 3 years, or for a period necessary to align with the planning period of a DSP's

regional transmission organization or “RTO” (for PECO, PJM Interconnection, L.L.C. (“PJM”)) (52 Pa. Code § 54.185(c));

- Directing each DSP to use “multiple competitive procurements and spot market purchases to meet its obligations and to reduce the risk of acquiring all supply at a time of unusual price volatility.” (*Final Rulemaking Order*, at 5);
- Deciding that “[c]onsideration should be given to procuring most fixed-term supply through full requirements or block contracts of 1 to 3 years in duration” for residential and small commercial customers in a DSP’s initial default service program (52 Pa. Code § 69.1805);
- Mandating the use of an independent third-party evaluator to monitor a DSP’s competitive bid solicitation process (52 Pa. Code § 54.186(c)(e)); and
- Requiring DSPs to offer a single rate option to customers identified as the “Price-to-Compare” (“PTC”) on each monthly bill, eliminate declining rate blocks, regularly adjust rates to reflect costs of acquiring energy at prevailing market prices and to recover all reasonable default service costs through an automatic energy adjustment clause (52 Pa. Code § 54.187).

8. In promulgating these regulations and guidance, the Commission nevertheless emphasized that it was “mindful of the risks of being too prescriptive in its approach to this rulemaking. . . . Accordingly, we do not attempt to dictate the exact manner by which every DSP will acquire electricity, adjust rates, and recover their costs.” *Final Rulemaking Order*, at 6.

9. PECO is proposing a comprehensive Default Service Program and Rate Mitigation Plan consistent with the Commission's regulations and guidance. PECO's Program and Rate Mitigation Plan includes the following key features:

- Tailored procurement strategies for different customer classes, with a portfolio of "full requirements" contracts at fixed prices and at prices set by PJM's wholesale "day-ahead" spot energy markets for PECO's Residential, Small Commercial (non-residential customers with peak demand up to 100 kW), and Medium Commercial customers (customers with peak demand between 100 kW and 500 kW);
- For Large Commercial and Industrial customers (customers with peak demand in excess of 500 kW), hourly priced default service based upon PJM spot market prices and a one-year transitional fixed-price option;
- A three-year Program term, with multiple supply procurements before and during the term using a competitive "Request for Proposals" ("RFP") process, administered (upon approval by the Commission) by NERA Economic Consulting, Inc. ("NERA"), an independent third-party evaluator;
- Laddering of multi-year contracts to further reduce risks associated with procurement of large portions of default supply at single points in time;
- Significant protections in supply master agreement contracts to address potential supplier defaults, with additional contingency plans;

- A requirement that suppliers provide alternative energy credits (“AECs”) for PECO’s AEPS compliance, supplemented by AECs PECO obtains through separate Commission-approved AEC procurements;
- A new generation service rate for each customer class, adjusted quarterly for Residential, Small and Medium Commercial customers, and monthly for Large Commercial and Industrial customers;
- The three-year phase-out of demand charges and block rates via the new generation service rates in accordance with the Commission’s regulations;
- A Market Rate Transition Deferral Program for Residential and Small Commercial customers in which the price increases of participating customers are limited and customers pay an additional charge in later years to pay the deferred portion of earlier increases;
- A Market Rate Transition Early Phase-In Program (filed separately before the Commission) in which participating customers pay a specific additional amount on their monthly electric bills – and receive interest on that amount in order to pre-pay a portion of the expected post-2010 market price increases;
- A Market Rate Transition Energy Efficiency Package (filed separately before the Commission) with new energy efficiency and demand side response tools to help customers reduce their electric usage, particularly at times when demand (and prices) for electricity are highest; and

- A Consumer Education Program, which the Commission has already approved,<sup>4</sup> to educate PECO's customers about the end of fixed rates, the likely increases in electricity costs, and each customer's ability to shop for competitive generation service.

10. PECO's plan also supports retail competition through procurement of generation at prevailing market prices, phasing out demand charges and block rates, and continuing PECO's existing programs to enhance retail competition as well as implementing new initiatives, including expanding customer referral opportunities, appointing a retail choice ombudsman, and supporting development of a common supplier coordination tariff by the Commission's Retail Markets Working Group ("RMWG").

11. This Petition includes the following statements, which are attached hereto and incorporated herein by reference:

**PECO Statement No. 1 – Testimony of Richard G. Webster, Jr.**

Mr. Webster is Director of Regulatory Affairs for PECO Energy. His testimony provides an overview of PECO's Default Service Program and Rate Mitigation Plan, including PECO's proposed schedule for these proceedings and customer notice.

**PECO Statement No. 2 – Testimony of William J. Patterer**

Mr. Patterer is Manager of Regulatory Strategy and Regulatory Affairs for PECO Energy. He describes PECO's proposed default service procurement and implementation plans.

**PECO Statement No. 3 – Testimony of Scott G. Fisher**

Mr. Fisher is a Principal of the NorthBridge Group, an economic consulting firm. Mr. Fisher provides expert analysis of PECO's proposed

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<sup>4</sup> See *PECO Energy Company Consumer Education Plan for 2008-2012 Submitted in Compliance with May 10, 2007 Final Order at Docket No. M-00061957, Docket No. M-2008-2032274* (Order entered August 7, 2008).

procurement and implementation plans as well as a quantitative analysis of prices obtained in recent solicitations for full requirements contracts.

**PECO Statement No. 4 – Testimony of Dr. Chantale LaCasse**

Dr. LaCasse is a Senior Vice President of NERA. Dr. LaCasse testifies regarding the rules of PECO's proposed procurements and the role and responsibilities of NERA as proposed independent administrator. Dr. LaCasse also addresses several issues relating to the procurement classes PECO has proposed.

**PECO Statement No. 5 – Testimony of John J. McCawley, P.E.**

Mr. McCawley is Director of Energy Acquisition for PECO. Mr. McCawley describes the supply agreement PECO will execute with successful bidders and also details PECO's strategy for AEPS compliance and its programs to enhance retail competition.

**PECO Statement No. 6 – Testimony of Alan B. Cohn**

Mr. Cohn is Manager, Revenue Analysis, Retail Rates, for PECO. Mr. Cohn describes proposed changes to PECO's tariff to address the end of capped generation rates and the acquisition of default service at prevailing market rates, including recovery of PECO's costs in accordance with the Competition Act. Mr. Cohn also details PECO's Market Rate Transition Deferral Program.

**PECO Statement No. 7 – Testimony of Manus J. McHugh**

Mr. McHugh is Director of Revenue Management for PECO. Mr. McHugh explains the significant enhancements that PECO proposes to make in its Customer Assistance Program for Residential customers.

**II. PECO'S DEFAULT SERVICE PROCUREMENT AND IMPLEMENTATION PLANS**

**A. Procurement Classes, Program Term, and Supply Portfolio**

12. As explained in the testimony of Mr. Webster and Mr. Patterer, PECO is dividing its customers into four classes for purposes of default supply procurement: Residential, Small Commercial, Medium Commercial, and Large Commercial and Industrial. This division reflects PECO's existing rate schedules as well as the nature of the load requirements of each customer

class and a balancing of other factors, including rate stability and the propensity of each class of customers to access competitive markets.<sup>5</sup>

13. The Residential class includes all residential customers currently receiving service under PECO rate schedules R, RH, and OP.

14. The Small Commercial class includes commercial customers served under rate schedule GS whose peak demand is less than 100 kW, as well as the following lighting rate schedules: AL, PD, HT, TL, POL, SLE, SLS, and SLP.

15. The Medium Commercial class includes customers on rate schedules GS, HT, and PD whose peak demand is equal to or greater than 100 kW but less than or equal to 500 kW.

16. The Large Commercial and Industrial class includes customers on rate schedules GS, HT, PD, and EP with peak demands greater than 500 kW.

17. The following table shows the four procurement classes along with their associated service types and their peak load contribution ("PLC"), effective September 1, 2008:<sup>6</sup>

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<sup>5</sup> The Commission's Default Service Regulations and Policy Statement provide that customers should be divided into three classes based upon peak load contributions of 0-25 kW, 25-500 kW, and 500 kW and above. *See* 52 Pa. Code §§ 54.187 & 69.1806. As Mr. Patterer explains in his testimony, PECO has proposed a Residential class and a Small Commercial class for customers with peak demand less than 100 kW to facilitate procurement. In accordance with 52 Pa. Code § 54.185(f), PECO accordingly requests a waiver of the applicable provisions of the Default Service Regulations.

<sup>6</sup> The PLCs of customers who receive service pursuant to a Rate Schedule rider are incorporated into the procurement class for the associated Rate Schedule.

<b>Procurement Class</b>	<b>Service Type (Rate Schedules)</b>	<b>Peak Load Contribution (PLC)</b>	<b>% of PLC</b>
<b>Residential</b>	<b>R, RH, OP</b>	<b>3163 MW</b>	<b>38%</b>
<b>Small Commercial (&lt;100 kW)</b>	<b>GS, PD, HT, POL, SLE, SLP, SLS, AL, TL</b>	<b>1388 MW</b>	<b>17%</b>
<b>Medium Commercial (100- 500kW)</b>	<b>GS, PD, HT</b>	<b>1100 MW</b>	<b>13%</b>
<b>Large Commercial / Industrial &gt; 500 kW</b>	<b>GS, PD, HT, EP</b>	<b>2703 MW</b>	<b>32%</b>
<b>Total</b>		<b>8354 MW</b>	<b>100%</b>

18. The amount of load for each class will be divided into slices, or “tranches,” on which suppliers may bid through a competitive bid solicitation process described below. In accordance with the Commission’s guidance directing DSPs to incorporate spot market purchases into default supply (52 Pa. Code § 69.1806), a portion of the energy for each customer class will be supplied at the hourly price of energy established by the PJM day-ahead market. This portion will range from five percent (5%) for PECO’s Residential customers, to ten percent (10%) for Small Commercial customers, to fifteen percent (15%) for Medium Commercial customers.

19. For Large Commercial and Industrial customers, PECO will offer default service based upon hourly PJM day-ahead market prices. In addition, consistent with Section 69.1805 of the Policy Statement (52 Pa. Code § 69.1805), PECO will conduct a solicitation for full requirements contracts to support a one-year fixed-price optional service for Large Commercial and Industrial customers for the period January 1, 2011 – December 31, 2011. This fixed price offering is a transition product that will only be offered at the beginning of the first year of the

Plan, and any customer remaining on this product after the first year will be transferred to hourly priced default service. Customers who elect to receive this fixed-price service after the price is established by the solicitation will be required to remain on that service during the entire first year of the Plan (*i.e.*, from January 1, 2011 through December 31, 2011).

20. PECO's Plan encompasses default service procurement for the above classes for the period beginning January 1, 2011 through May 31, 2014. This term is consistent with the Commission's Default Service Regulations, which provide that the first default service program of a default service provider shall be for a period of up to three years. *See* 52 Pa. Code § 54.185(c) ("The first default service program shall be for a period of 2 to 3 years, or for a period necessary to comply with § 54.185(d)(4), unless another period is authorized by the Commission."). The Plan includes an additional five-month period to enable PECO's procurements to align with the PJM planning period, as required by the Commission. *See* 52 Pa. Code § 54.185(d)(4) (requiring that the period of service "align with the planning period of [the regional transmission organization] or other entity"); *see also* *Petition of the West Penn Power Company d/b/a Allegheny Power for Approval of its Retail Electric Default Service Program and Competitive Procurement Plan for Service at the Conclusion of the Restructuring Transition Period*, Pa. PUC Docket No. P-00072342 (Order entered July 17, 2008) ("*Allegheny Order*"), at 43 (concluding that 41-month default service program term was not inconsistent with the *Final Rulemaking Order and Policy Statement*). The contracts on which suppliers will bid will have different terms, ranging from 12 to 41 months, with the terms of some contracts extending beyond May 31, 2014 to facilitate laddering of contract delivery periods. *See* 52 Pa. Code § 54.186(b)(3) ("Procurement plans may include solicitations and contracts whose duration extends beyond the program period.").

21. Each wholesale supplier will deliver a percentage of PECO's default service load pursuant to the terms of the Default Service Supply Master Agreement ("SMA"), which is described in the testimony of Mr. John McCawley. All supply contracts (including those contracts in which the energy will be priced in accordance with PJM's day-ahead spot energy market) will be full requirements, load-following contracts.

22. A full requirements, load-following contract requires a supplier to provide service that includes energy, capacity, ancillary services, and any other services or products necessary to serve a specified percentage of PECO's default service load twenty-four hours a day, three hundred and sixty-five days a year. Because the contract is "load following," the amount of energy and other services and products a supplier must provide will vary depending upon PECO's actual default service load. Under the SMA, PECO remains responsible for all distribution services to its default service customers, as well as transmission costs for PJM Network Integration Transmission Service ("NITS") and related services that it will recover through its current unbundled retail transmission rate.

23. The Policy Statement permits the use of full requirements contracts for procurement of default service generation (*see, e.g.*, 52 Pa. Code § 69.1806), and the Commission has repeatedly approved the use of full requirements contracts. *See, e.g., Allegheny Order* at 21-22 (approving full requirements procurement). Mr. Webster and Mr. Fisher testify regarding how full requirements contracts provide competitive benefits for customers and how the Plan's use of such contracts achieves an appropriate balance of rate stability and exposure to current market price signals, with protection for customers against adverse market outcomes. Based on an analysis of recent competitive solicitations, Mr. Fisher also provides market evidence demonstrating that open solicitations for the type of full requirements supply that

PECO is proposing to procure have produced high levels of participation and competition and resulted in market prices for supply.

24. The following table summarizes the proposed supply portfolio for each customer class:

<b>Residential</b>	<b>Small Commercial</b>	<b>Medium Commercial</b>	<b>Large Commercial and Industrial</b>
<ul style="list-style-type: none"> <li>• 5% spot-price full requirements</li> <li>• 30% 1-year fixed-price full requirements</li> <li>• 65% 3-year laddered fixed-price full requirements</li> </ul>	<ul style="list-style-type: none"> <li>• 10% spot-price full requirements</li> <li>• 50% 1-year fixed-price full requirements</li> <li>• 40% 2-year laddered fixed-price full requirements</li> </ul>	<ul style="list-style-type: none"> <li>• 15% spot-price full requirements</li> <li>• 85% 1-year fixed-price full requirements</li> </ul>	<p>Option A (default):</p> <ul style="list-style-type: none"> <li>• 100% spot-price full requirements</li> </ul> <p>Option B:</p> <ul style="list-style-type: none"> <li>• 100% 1-year fixed-price full requirements</li> </ul>

**B. Competitive Bid Solicitation Process**

25. As described in the testimony of Mr. Patterer, PECO intends to solicit bids for default service supply beginning in Fall 2009, before the end of its transition period, so that PECO will not have to procure all of its default supply immediately before January 1, 2011. These multiple procurements are consistent with Commission guidance and are intended to avoid problems associated with procuring significant amounts of supply at a point in time when prices may be highest.

26. Assuming approval of its Plan, PECO will conduct three solicitations prior to January 1, 2011, in Fall 2009, Spring 2010, and Fall 2010. Because the supply contracts PECO would enter into as a result of these solicitations vary in length and do not cover the entire term of PECO's Plan (*i.e.*, through May 31, 2014), PECO will also conduct four additional

solicitations after January 1, 2011 for additional default supply. The final solicitation is tentatively scheduled for April 18, 2013.

27. All bids for default service supply will be submitted through a fair, non-discriminatory, and competitive bid-solicitation process conducted by an independent third-party evaluator, and PECO proposes NERA for this role. In her testimony, Dr. LaCasse of NERA describes NERA's qualifications as well as the RFP rules, proposed solicitation schedule, bidder qualifications, bidder financial requirements, and price-evaluation mechanisms, including procedures for resolving tie bids. In addition, to help ensure diversity of supply, the RFP rules provide that no supplier will be permitted to provide more than 80% of the default supply for any one of PECO's procurement classes.

28. As Dr. LaCasse explains, PECO's proposed competitive procurement process complies with the Commission's codes of conduct and includes protocols to ensure that PECO's affiliate, Exelon Generation, does not receive an advantage in the bidding process or any other aspect of PECO's default service implementation plan. In order to permit the participation of Exelon Generation in PECO's competitive procurement (as allowed by Section 54.186(b)(5) of the Default Service Regulations, 52 Pa. Code § 54.186(b)(5)), PECO also respectfully requests the Commission approve the SMA as an affiliated interest agreement under 66 Pa. C.S. § 2102.

### **C. Consistency With Regional Transmission Organization Requirements**

29. In accordance with the Default Service Regulations, PECO's Program is also "consistent with the legal and technical requirements pertaining to the generation, sale and transmission of electricity of the RTO in whose control area the DSP is providing service." 52 Pa. Code § 54.186(d)(4). As explained by Mr. McCawley, PECO's SMA imposes requirements on both PECO and its suppliers to maintain specific qualifications under applicable PJM

agreements and rules, as well as all other all regulatory authorizations (including those of the Federal Energy Regulatory Commission) necessary to perform all contractual obligations. Furthermore, as described by Dr. LaCasse, suppliers seeking to bid to provide default service generation must be able to establish that they can fulfill all technical and regulatory requirements of the SMA, including demonstrating that there is no impediment to becoming a “load serving entity” under PJM’s rules.

**D. AEPS Compliance**

30. As Mr. McCawley describes in his testimony, beginning January 1, 2011, PECO will need to comply with AEPS requirements. Specifically, from January 1, 2011 through May 31, 2011, PECO will require AECs from “Tier I” resources equal to 3% of its default service sales, with 0.0203% of these Tier I sales met with AECs derived from solar resources. In addition, PECO will require AECs from “Tier II” resources equal to 6.2% of its default service sales. These percentage obligations will then increase through 2020, as provided in the AEPS Act.

31. Each supplier who successfully bids to provide a portion of PECO’s default supply is required under the SMA to provide PECO with AECs sufficient for PECO to satisfy its AEPS requirements associated with the amount of load served by that supplier. All AECs must be transferred to PECO using the PJM Generation Attribute Tracking System (“PJM-GATS”), the Commission-approved AEPS registry. To the extent PECO has procured AECs through its AEC procurement approved by the Commission in Docket No. P-00072260 or any additional approved AEC procurements, those AECs will be used to reduce the obligations of suppliers on a pro rata basis; however, no AECs procured separately by PECO will be transferred to suppliers. Mr. McCawley describes the SMA provisions relating to AEPS compliance in his testimony.

32. In the event a supplier fails to transfer sufficient AECs to PECO, that supplier must pay damages to PECO equal to the amount of the alternative compliance payment associated with the type of AEC not supplied. Under the AEPS Act, PECO is obligated to pay \$45 for each AEC it does not obtain to satisfy its Tier I non-solar and Tier II obligations. With respect to solar, PECO is required to pay a penalty for undelivered solar AECs equal to 200% of the average market value of solar renewable energy credits in PJM. The SMA requires a supplier to pay \$45 per undelivered Tier I and Tier II non-solar AEC, and a value for solar AECs which will be specified at the time of each default supply procurement. In the event that the Commission sets a price different than \$45 for non-solar AECs or determines that the solar AEC compliance payment is greater or less than the value specified at the time of the procurement, suppliers will be required to pay (or will be refunded) the difference between the damages paid under the SMA and the actual penalty amounts determined by the Commission.

33. Finally, as with a general supplier default, PECO may procure AECs on an ad hoc basis to meet its compliance obligations. Any difference between the payments made by suppliers under the SMA and the cost of AECs procured by PECO for compliance will be credited to customers through PECO's default service rates via the reconciliation process.

### **III. CONTINGENCY PLANS**

34. In accordance with the Default Service Regulations (52 Pa. Code § 54.185(d)(5)), PECO has developed contingency plans to address the possibility of a supplier default under the SMA, which are described by Mr. Patterer. The SMA includes requirements for suppliers to maintain certain credit levels and to provide collateral to help protect PECO's customers from costs associated with being forced to obtain alternative generation in the event of a supplier default. If a supplier default does occur, PECO will initially rely on fulfilling that supplier's

portion of PECO's default service load through the PJM-administered markets for energy, capacity, and ancillary services. PECO will also procure sufficient AECs as necessary to satisfy any near-term obligation under the AEPS Act. If the default occurs within a reasonable time before a scheduled procurement, the load served by the defaulting supplier will be incorporated into that procurement. Otherwise, PECO will file a plan with the Commission with alternative procurement options and a request for approval on an expedited basis.

35. PECO is also proposing contingency plans if insufficient bids are received for any portion of PECO's default service load. In those circumstances, the portions of supply that were not awarded to bidders will be included in PECO's next default supply procurement. If necessary, PECO will continue to supply any unserved portion of its default service load from the PJM-administered markets for energy, capacity and ancillary services and procure sufficient AECs to satisfy any near-term obligations under the AEPS Act.

#### **IV. RATE DESIGN**

36. In PECO Statement No. 6, Mr. Cohn describes PECO's proposed default service rate design plan and new tariff provisions. As Mr. Cohn explains, PECO has strived to keep its new rates simple and to allocate costs in accordance with principles of cost causation.

37. Consistent with these principles, PECO is proposing a new generation service adjustment ("GSA") rate, which will consist of a single price for all customers in each of the four default service customer classes. This rate will be subject to quarterly reconciliation for Residential, Small Commercial, and Medium Commercial customers, and monthly reconciliation for Large Commercial & Industrial customers. As part of this rate design, PECO proposes to eliminate demand charges as well as declining block rates over a three-year period.

38. As required by the Default Service Regulations (52 Pa. Code § 54.187(f)), PECO will also be providing customers with a “price to compare” (“PTC”) on each monthly bill. The PTC will include the GSA and any other components of default service, including applicable transmission charges and AEPS charges associated with PECO’s Commission-approved AEC procurements.

39. In addition to the foregoing, PECO is proposing a number of technical and conforming changes to its tariff to accommodate the end of the collection of competitive transition charges (“CTCs”) and intangible transition charges (“ITCs”) and the end of capped generation rates. This includes removal of references to CTCs and ITCs, as well as the elimination of certain rate provisions and riders that PECO can no longer offer in the absence of capped generation rates. Mr. Cohn describes these changes in his testimony, as well as new interruptible and economic development rates PECO seeks to introduce which reflect the post-2010 environment in which PECO will acquire generation at prevailing market prices. These interruptible and economic development rates are competitively neutral, meaning discounts to transmission and distribution charges under these rates are independent of whether the customer receives generation service from PECO or an EGS, and generation-related credits for default service customers are derived only from PJM’s demand side response programs (which are also available through EGSs and third-party curtailment service suppliers).

## V. UNIVERSAL SERVICE

40. The Commission is presently considering PECO’s comprehensive universal service plan. *See PECO Energy Company Universal Services Three-Year Plan 2007 - 2009 Submitted in Compliance with 52 Pa. Code § 54.74, Docket No. M-00061945.* As part of this proceeding, PECO is seeking Commission approval for tariff changes to provide significant

enhancements to its Customer Assistance Program (“CAP”) commencing January 1, 2011, after PECO’s Program takes effect.

41. As described in the testimony of Manus McHugh, PECO’s Director of Revenue Management (PECO Statement No. 7), PECO’s CAP program provides low-income customers who have difficulty paying their electric bill with financial assistance in the form of a discounted rate. A person seeking CAP benefits must have a household income at or below 150% of the federally-defined poverty level. If the customer satisfies this requirement, the customer is then placed in different CAP levels depending upon household income (*e.g.*, 0-50% of the federally-defined poverty level, 51-100%, or 101-150%).

42. The first proposed enhancement to PECO’s CAP program is an increase in the amount of discount PECO will provide to what CAP customers will pay – sometimes known as their “energy burden” – to be consistent with the target affordability levels identified in the Commission’s policy statement on Customer Assistance Programs (52 Pa. Code § 69.261 *et seq.*). Second, PECO is proposing a periodic adjustment mechanism so that the discount levels will adjust based upon the commodity price for electric generation service PECO obtains through its default service procurements. Together, these two enhancements will allow PECO’s low-income customers to obtain electric utility service at costs that meet the Commission’s definition of affordability, even in the face of volatility in the wholesale generation market. The costs of these programs will be recovered in distribution rates paid by PECO’s residential customers through PECO’s Universal Service Fund Charge, as explained by Mr. Cohn in his testimony.

## **VI. RATE MITIGATION**

43. PECO has developed a comprehensive Rate Mitigation Plan to ease the transition of its electric distribution customers from capped rates to market-based energy prices. As stated

in the testimony of Mr. Webster, PECO's Rate Mitigation Plan is incorporated into several components of PECO's Default Service Program, including:

- Competitive, laddered procurement of default generation;
- Phase out of declining block rates;
- Increased discounts for participants in PECO's CAP program, with new features to address fluctuating generation prices;
- Competitively neutral economic development rates to support economic growth;
- Expanded support for retail competition through customer referral and development of common supplier coordination tariffs as part of the Commission's RMWG.

In addition, PECO's Rate Mitigation Plan includes:

- A Market Rate Transition Energy Efficiency Package, with new energy efficiency and demand side response tools to help customers reduce their electric usage;
- A Market Rate Transition Phase-In Program, to permit customers to pre-pay a portion of the expected post-2010 market price increases;
- A Market Rate Transition Deferral Program, in which the price increases of participating customers are limited and those customers then pay an additional charge in later years to pay the deferred portion of the earlier increases; and

- A Consumer Education Program to educate PECO's customers through extensive media, direct communication, and Web-based communication before, during, and after PECO's transition period about the end of fixed rates, the likely increases in electricity costs, and customers' ability to shop for competitive generation service.

44. In this proceeding, PECO specifically seeks approval of the Market Rate Transition Deferral Program component (the "Deferral Program") of its Rate Mitigation Plan. Under the Deferral Program, which is described in detail in Mr. Cohn's testimony, a Residential or Small Commercial customer who will experience a rate increase of more than 25% will be able to enroll in the program and receive a credit during the first two to three years after the expiration of rate caps. After the customer transitions to full market prices, they will then pay the deferred portion of the increases through an additional charge on their bills over the following two to three years. The surcharge will include interest on the deferred amount of 6% per year to cover PECO's costs of financing the program. Mr. Cohn discusses PECO's plans for calculating these credits and charges in his testimony.

45. The Market Rate Transition Deferral Program is competitively neutral, and customers who obtain their generation from an EGS will be able to participate.

46. Section 69.1811 of the Policy Statement expressly provides that DSPs will be able to recover the reasonable carrying costs associated with a rate increase deferral program, including associated administrative costs. PECO will be seeking recovery of the costs of this program as described in the testimony of Mr. Cohn, consistent with the Commission's regulations and Pennsylvania law. PECO proposes to recover these costs, including the costs of these proceedings, through a non-bypassable, reconcilable surcharge added to its distribution

rates for Residential and Small and Medium Commercial class customers. Recovery through distribution rates is appropriate because the program will help the Residential and Small Commercial distribution customers permitted to participate in this program adjust to market prices for energy, regardless of whether they obtain their generation through PECO or an EGS. Recovery of the costs of the Market Rate Transition Early Phase-In Program is discussed in separate testimony in that proceeding.

## VII. RETAIL COMPETITION ISSUES

47. As described by Mr. Webster and Mr. McCawley, PECO's Plan supports retail competition in several ways, including procurement at prevailing market prices and phasing out demand charges and block rates. PECO has also already implemented a variety of programs that support electric generation suppliers and retail choice. These programs include a favorable "purchase of receivables" ("POR") program, a program for releasing customer account information with customer approval, "bill ready" billing, and a dedicated hotline for retail suppliers to ask questions or resolve issues. PECO is also fully participating in the Commission's recently formed RMWG, and will consider additional changes to these existing programs based upon the RMWG's work and recommendations. In addition to these programs and the features of PECO's default service implementation plan and rate design, PECO intends to pursue the following additional initiatives to support retail competition:

- ***Expanding Customer Referral Opportunities*** (52 Pa. Code § 69.1815). PECO believes that customers should be given basic information about their ability to choose alternative suppliers. PECO is therefore planning the periodic promotion of electric choice to both residential and commercial customers through its Energy@Home and Energy@Work

newsletters, as well as convening supplier information sessions regarding customer referral options.

- ***Supporting Common Supplier Coordination Tariffs*** (52 Pa. Code § 69.1816). PECO understands that certain EGSs seek standardization of supplier tariffs across EDCs. For this reason, PECO recommends that the RMWG establish a sub-working group to propose a common format for supplier coordination tariffs (taking into account certain areas that will vary between EDCs, including metering).
- ***Appointing A Retail Choice Ombudsman*** (52 Pa. Code § 69.1817). PECO supports naming of a PECO employee as retail choice ombudsman responsible for responding to questions from competitive retail suppliers, monitoring competitive market complaints, and facilitating informal dispute resolution. PECO will be officially designating an individual for this role. In addition, PECO intends to participate in the RMWG's work to propose the roles and responsibilities of the Commission's own retail choice ombudsman.

## **VIII. PROCEDURAL ISSUES AND COMMISSION APPROVAL**

48. Section 54.188 of the Commission's Default Service Regulations provide that the Commission will issue an order within seven months of the filing of a default service program as to whether the proposed program is consistent with the Competition Act. *See* 52 Pa. Code § 54.188. In accordance with Section 54.188, PECO proposes the following schedule for this proceeding:

September 10, 2008	Petition Filing
October 9, 2008	Prehearing Conference
October 30, 2008	Other Parties' Direct Testimony Due
November 25, 2008	Rebuttal Testimony Due
December 15-19, 2008	Hearings
January 14, 2009	Main Briefs
January 28, 2009	Reply Briefs
February 27, 2009	Recommended Decision
April, 2009	Commission Order

## **IX. NOTICE**

49. In accordance with Section 54.188 of the Commission's Default Service Regulations, PECO is providing public notice of this filing to its customers in several ways. PECO is including a stand-alone insert in all customer bills over a thirty-day period beginning on October 1, 2008. This stand-alone bill insert will notify customers of this filing, where they may obtain copies, and how they may participate in this proceeding by filing comments or complaints with the Commission. In addition, PECO is publishing notices containing similar information in all of the major newspapers serving PECO's service territory, and is also issuing a press release to all major media (newspapers, television and radio stations) in its service territory. Finally, all notices will refer to PECO's website, ([www.peco.com/know](http://www.peco.com/know)), where a copy of the entire filing will be maintained.

50. In addition to the above notice, PECO is also serving copies of this filing on the Pennsylvania Office of Consumer Advocate, the Pennsylvania Office of Small Business Advocate, the Commission's Office of Trial Staff, PJM, and all EGSs registered in PECO's service territory.

51. PECO respectfully requests the Commission publish notice of this filing in the Pennsylvania Bulletin, with a reasonable deadline for intervention in this proceeding in light of the above notice PECO is providing. Should the Commission conclude that further notice of this filing is appropriate, PECO will provide such additional notice as directed by the Commission.

## **X. CONCLUSION**

Based upon the foregoing, including the attached testimony and exhibits, PECO respectfully requests that the Commission grant this Petition and enter an order:

(1) Approving PECO's proposed Program, including its default service procurement plan and implementation plan for default service supply through solicitation of competitive bids, for all PECO customers who do not take generation service from an alternative electric generation supplier or who contract for energy with an alternative electric generation supplier which is not delivered;

(2) Approving PECO's proposed rate design and tariffs for default generation service after December 31, 2010, including recovery of all of PECO's costs associated with the provision of default service;

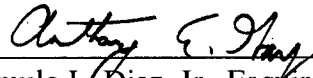
(3) Approving PECO's proposed supply master agreement as an affiliated interest agreement under 66 Pa. C.S. § 2102;

(4) Approving NERA Economic Consulting, Inc., as the third-party administrator for PECO's default supply procurements;

(5) Granting a waiver of the rate design provisions of 52 Pa. Code § 54.187 to permit PECO to procure generation for four procurement classes as set forth herein;

(6) Approving PECO's proposed competitively neutral Market Rate Transition Deferral Program component of PECO's Rate Mitigation Plan.

Respectfully submitted,



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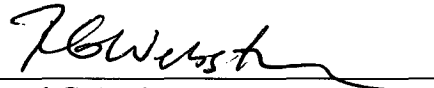
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September 10, 2008

For PECO Energy Company

**VERIFICATION**

I, Richard G. Webster, hereby declare that I am Director, Regulatory Affairs of PECO Energy Company; that as such I am authorized to make this verification in its behalf; that the facts set forth in the foregoing Petition of PECO Energy Company for Approval of its Default Service Program and Rate Mitigation Plan filing are true and correct to the best of my knowledge, information and belief, and that I make this verification subject to the penalties of 18 Pa. C.S. § 4904 pertaining to false statements to authorities.



Richard G. Webster, Jr.

Date: September 10, 2008