

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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IRWINA. POPOWSKY  
Consumer Advocate

December 4, 2009

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

RE: Petition of PECO Energy Company for  
Approval of its Revised Electric Purchase of  
Receivables Program  
Docket No. P-2009-2143607

Dear Secretary McNulty:

Enclosed for filing is the Answer of the Office of Consumer, in the above-referenced proceeding.

Copies have been served as indicated on the Certificate of Service.

Respectfully Submitted,

A handwritten signature in black ink that reads "Barrett Sheridan".

Barrett C. Sheridan  
Assistant Consumer Advocate  
PA Attorney I.D. # 61138

Enclosures

cc: Administrative Law Judge  
Office of Special Assistants

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BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of PECO Energy Company	:	
For Approval of Its Revised Electric	:	Docket No. P-2009-2143607
Purchase of Receivables Program	:	

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ANSWER OF THE  
OFFICE OF CONSUMER ADVOCATE

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I. INTRODUCTION

The Office of Consumer Advocate is in receipt of the Petition of PECO Energy Company (PECO or Company) requesting approval to revise its Electric Purchase of Receivables (POR) Program and accompanying tariff supplements. PECO filed its Petition pursuant to the terms of the settlement of PECO’s default service case, as approved by the Public Utility Commission (PUC or Commission). See Petition of PECO Energy Company for Approval of its Default Service Program and Rate Mitigation Plan, Docket No. P-2008-2062739 (Order entered June 2, 2009)(Default Service Settlement). As part of the Default Service Settlement, PECO committed to pursue changes to its POR program to take effect on January 1, 2011. In its Petition, PECO states that its Revised POR program “represents a proper balancing of customer protection and the interests of PECO, participating EGSs, and other stakeholders.” Petition at 2. PECO states that it also considered the Commission’s decision in Petition of PPL Utilities Corporation Requesting Approval of a Voluntary Purchase of Accounts Receivables Program and Merchant Function Charge, Docket No. P-2009-2129502 (Nov. 19, 2009)(PPL POR Order) in development of its Revised POR. PECO requests expedited review and a Commission

approval no later than March 31, 2010 to allow PECO time to implement the changes by January 1, 2011. Id.

As explained by PECO, the Default Service Settlement identified elements which its Revised POR should address. The OCA was a party to the Default Service Settlement and participated in the stakeholder meetings which PECO held, as part of the terms of the Settlement. Nonetheless, the OCA cannot agree with PECO's assessment that the Revised POR Program reflects an appropriate level of consumer protections and should be approved. The OCA submits that the Revised POR does not contain adequate consumer protections and fails to maintain the same level of quality of customer service as PECO's existing program or its prior practice. 66 Pa.C.S. § 2807(d). The OCA enumerates its major concerns over PECO's proposal below.

II. ANSWER

A. The OCA Submits That Certain Provisions In The Proposed PECO Revised POR Program Must Be Modified.

The OCA submits that PECO's proposed POR program contains components that may be inconsistent with law or unreasonable, and fails to include components that provide necessary consumer protections. The OCA's major concerns with the proposed POR are discussed below.

1. PECO's Right To Terminate Customers And The Requirements Of Reconnection Must Be Limited To Unpaid Charges That Are No Higher Than Default Service Rates.

Of significant concern to the OCA is PECO's position that it should be allowed to terminate customers for non-payment of unregulated supplier charges even if those charges are higher than the regulated default service rate. Correspondingly, PECO would require the full

payment of uncollected supplier charges, even if those charges were higher than the regulated default service rate, prior to reconnecting a terminated customer. Petition, ¶¶ 22-24. Pursuant to the Default Service Settlement, PECO's ability to implement a POR which provides for termination of service to a customer based on the customer's non-payment of supplier charges in the same manner and to the same extent as PECO's ability to terminate for non-payment of EDC charges is "subject to appropriate consumer protections to be developed in consultation with the parties to the Settlement." Petition ¶ 10, quoting Default Service Settlement ¶ 66. The OCA submits that PECO's Revised POR provisions, which address both termination and reconnection of customers for unregulated, unpaid EGS charges, do not provide appropriate consumer protections.

The OCA has extensively commented to the Commission on this topic and continues to object to any POR program that does not contain essential consumer protections regarding the potential for termination (or denial of restoration) based on unregulated charges. See 66 Pa. C.S. §§ 1301, 1406; 52 Pa. Code Chapter 56. The Pennsylvania General Assembly sought to continue the consumer protections outlined in the Public Utility Code and Chapter 56 of the Commission's regulations in the introduction of competition in the electric industry. Specifically, Section 2807(d) provides:

The electric distribution company shall continue to provide customer service functions consistent with the regulations of the commission, including meter reading, complaint resolution and collections. Customer services shall, at a minimum, be maintained at the same level of quality under retail competition.

66 Pa.C.S. § 2807(d). Prior to retail choice, customers could not be terminated based on unregulated charges.

The OCA submits that the Commission should reject this provision of PECO's POR and direct PECO to implement the same consumer protections as in the Duquesne Light POR program. See, Petition of Duquesne Light Company For Approval of a Default Service Plan for the Period January 1, 2008 through December 31, 2010, Docket No. P-00072247 (Order entered June 22, 2007). The Duquesne Light Company POR design provides the consumer protections that the OCA submits are necessary. The OCA submits that there is adequate time for PECO to make the necessary billing system changes so that the Revised POR complies with the Public Utility Code. This essential consumer protection should be added to any POR approved for PECO.

2. Although The POR Program Is Properly Limited To Charges For Basic Electric Supply Service, Clarifications Are Needed.

In the Petition, PECO states that its Revised POR program is applicable only for basic electric supply services provided by EGSs. Petition ¶¶ 15, 16. PECO proposes to revise its Electric Generation Supplier (EGS) Coordination Tariff, "Billing Service Options," to include the following description of "basic electric supply":

13. Upon request, an EGS shall provide a written certification to the Company that the Supplier is providing only basic electric supply to customers billed under Consolidated EDC billing. Basic electric supply includes delivered energy (including renewable energy) and renewable energy or alternative energy credits associated with delivery of such energy. Basic electric supply does not include a non-generation product (e.g., service contract for appliances, or a payment for energy reductions such as demand response products) or renewable energy or alternative energy credits without energy.

PECO St. No. 1, Exh. JJM-1; see also Petition ¶ 16.

In Ordering Paragraph 4 of the PPL POR Order, the Commission described what services may be included in “basic supply service charges” and what EGS services could not be considered “basic supply service charges:”

That the basic supply service charges, for which non-payment thereof may result in service termination, includes REC-based or other “attribute-based renewable products” bundled with physical energy and excludes any ancillary service provided by an EGS such as PPL Electric Utilities Corporation’s Green Power Option and/or termination fees, smart thermostat installations, refrigerator repairs or other non-regulated offerings.

The OCA submits that PECO’s description of what is not in “basic electric supply” charges, as set forth in the proposed EGS Coordination Tariff, should be revised to include all aspects of the Commission’s description of “basic supply service” charges as set forth in the PPL POR Order. The PPL POR Order language states clearly that EGS services and products including termination fees, charges for both the purchase and installation of demand management devices, and appliance repairs cannot be treated as basic electric supply charges.

Revision of PECO’s EGS Coordination Tariff language is necessary to clearly identify which charges can be included in the POR program. See Petition ¶ 16; PECO St. No. 1 at 11-12.

3. PECO Should Require Receipt of Certification from the EGS

As noted above, PECO proposes to add language to its EGS Coordination Tariff which describes “basic electric supply” and would require EGS “upon request” to “provide a written certification to the Company that the Supplier is providing only basic electric supply to customers billed under Consolidated EDC billing.” See PECO St. No. 1, Exh. JJM-1, “Billing Service Options,” 13.

The OCA submits that PECO should strengthen the certification requirement. All EGSs should provide certification to PECO as a condition of use of Consolidated EDC Billing and participation in the Revised POR program. This protection should not depend on individual requests by PECO.

4. EGSs Participating In PECO’S Revised POR Must Accept All Customers And Must Forego Any Request for Additional Security.

As noted above, PECO’s implementation of a Revised POR which includes the ability to terminate customers for non-payment of EGS basic electric supply charges is conditioned upon the development of appropriate consumer protections. See Petition ¶ 25, quoting Default Service Settlement ¶ 66. The OCA submits that PECO’s POR program and related tariffs should be revised to require that participating EGSs accept all customers and must forego any request for additional deposits. The POR program removes the risk of non-payment from the EGS, meaning that the EGS will have reduced costs for such things as credit screening, obtaining and monitoring security deposits, and pursuing collection activities. With these benefits, customers should be provided assurance that EGSs will serve them with valid offers.

In the PPL POR Order, the Commission approved the parties’ Joint Petition for Settlement which provides in part that:

EGSs participating in the residential POR Program will agree not to reject for enrollment a new residential customer covered by the residential POR Program based on credit-related issues and agree not to require a deposit for providing service. Any customer who wishes to be served by an EGS participating in the residential POR Program will accepted by that EGS, if that EGS is actively serving the residential customer class.

PPL POR Order, Attachment “Joint Petition for Settlement,” ¶ 25. While not binding precedent, OCA submits that this language illustrates an appropriate consumer protection which an EGS

competing in PPL's service territory will be subject to, if the EGS wishes to participate in PPL's POR program. The OCA recommends the addition of these terms and conditions to PECO's Revised POR and related tariffs.

5. PECO's Proposal To Impose the Discount on a Temporary Basis and to Recover On-going Costs of Administering the Revised POR Program through Future Distribution Rates Present Several Problems.

PECO has proposed a temporary POR discount of 0.2% for the limited purpose of recovery of the incremental costs of implementing the Revised POR. Those costs would include incremental information technology costs estimated at \$2 million plus costs of communicating the changes in termination and reconnection rules to consumers, estimated at \$22,000. Petition ¶ 20. However, PECO states that "[t]he on-going operating and administrative costs of the Revised POR Program will be included in PECO's next base electric distribution rate case. Id. ¶ 21.

The OCA opposes PECO's proposal which would impose only the incremental costs of implementation of the Revised POR Program on EGSs but not the on-going operating and administrative costs of the program. The 0.2% discount rate which PECO has proposed be temporary should not be temporary.

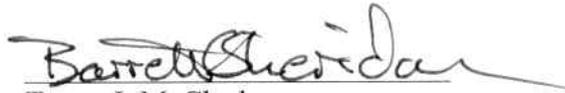
The OCA submits that the operating and administrative costs associated with PECO's Revised POR should be recovered through a discount applied to the purchased receivables not from distribution service customers. The Revised POR operating and administrative costs will change based on the advantages and benefits provided to the EGS from participation, including the avoidance of a need to maintain dual billing service as a back-up. PECO's proposal to recover no operating and administrative costs of the Revised POR program

from participating EGSs should be rejected. Initially, the discount rate should be calculated to provide recovery of both incremental implementation costs plus on-going operating and administrative costs. Once PECO has fully recovered the incremental implementation costs, the discount rate should be reduced to recover only operating and administrative costs.

### III. CONCLUSION

The OCA intends to participate in any proceedings established by the Commission. As set forth in this Answer, the OCA submits that PECO's proposed Revised Purchase of Receivables Program requires modification prior to Commission approval.

Respectfully Submitted,



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Dated: December 4, 2009  
120407; v.2

CERTIFICATE OF SERVICE

Petition of PECO Energy Company for : Docket No. P-2009-2143607  
Approval of its Revised Electric Purchase :  
of Receivables Program :

I hereby certify that I have this day served a true copy of the foregoing document, Answer of the Office of Consumer Advocate, 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 4<sup>th</sup> day of December 2009.

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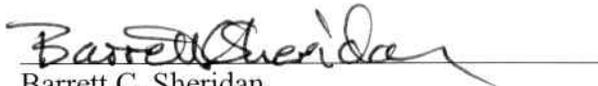
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