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March 22, 2010

VIA FEDERAL EXPRESS

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 are an original and nine (9) copies of the **Main Brief of PECO Energy Company (Main Brief)** in the above referenced matter. Also enclosed is a disk containing the Main Brief in a searchable PDF format.

As evidenced by the attached Certificate of Service, a copy of the Main Brief has been served upon Administrative Law Judge Cynthia Williams Fordham and all parties. Pursuant to 52 Pa. Code §1.11(2), the enclosed Main Brief shall be deemed filed on the date shown on the express delivery receipt attached to the delivery envelope.

Kindly time stamp the extra copy of the Main Brief we have enclosed and return it to us in the postage-paid return addressed envelope provided.

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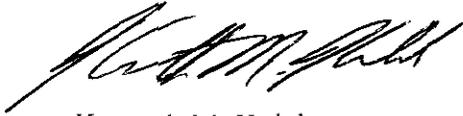
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**PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU**

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Should you have any questions please contact me directly at 215.963.5384. Thank you.

Very truly yours,

A handwritten signature in black ink, appearing to read "Kenneth M. Kulak". The signature is fluid and cursive, with the first name being the most prominent.

Kenneth M. Kulak

Enclosures
c: Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**PETITION OF PECO ENERGY :
COMPANY FOR APPROVAL OF ITS :
REVISED ELECTRIC PURCHASE OF : DOCKET NO. P-2009-2143607
RECEIVABLES PROGRAM :**

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

**MAIN BRIEF OF
PECO ENERGY COMPANY**

**Before Administrative Law Judge
Cynthia Williams Fordham**

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March 22, 2010

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I. STATEMENT OF THE CASE

A. Procedural History

This proceeding was initiated on November 20, 2009, when PECO Energy Company (“PECO” or the “Company”) petitioned the Pennsylvania Public Utility Commission (the “Commission”) to approve revisions to PECO’s current electric purchase of receivables program (the “Revised Electric POR Program” or “Program”). In its Petition, PECO requests that the Commission approve the Revised POR Program to permit PECO to: (i) purchase the customer receivables of electric generation suppliers (“EGSs”) participating in PECO’s consolidated billing option for basic retail electricity supply services in PECO’s service territory, without recourse by PECO to those suppliers for receivables that PECO cannot collect; (ii) discount the purchase price for those receivables only so long as necessary to recover the initial implementation costs for the Revised POR Program; and (iii) conduct collection activities with respect to all purchased EGS receivables and, if necessary, terminate electric service to any customer whose account (including the EGS receivable purchased by PECO) remains unpaid, with all such collection and termination activity to be conducted in accordance with Chapter 14 of the Pennsylvania Public Utility Code and Chapter 56 of the Commission’s regulations (52 Pa. Code §§ 56 et seq.). As part of its Petition, PECO also requested the Commission to approve related supplements to PECO’s current Electric Generation Supplier Coordination Tariff and the Electric Service Tariff which the Commission has approved for use beginning January 1, 2011.¹

PECO proposed the Revised Electric POR Program in accordance with the Commission-approved settlement of PECO’s default service program for the provision of electric service after December 31, 2010, when PECO’s transition period under Pennsylvania’s Electricity Generation

¹ 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”).

Customer Choice and Competition Act, 66 Pa.C.S. § 2801 et seq. (the “Competition Act”) and current capped rates for electric generation will end.² As required by the Default Service Settlement, PECO conducted three stakeholder meetings to discuss ideas for revising its POR program in preparation for filing the Petition.

The Office of Consumer Advocate (“OCA”) and the Office of Small Business Advocate (“OSBA”) filed Notices of Intervention, Public Statements and Answers to PECO’s Petition, all dated December 4, 2009. On December 10, 2009, the Office of Trial Staff (“OTS”) filed an Answer to PECO’s Petition. Thereafter, Petitions to Intervene were filed by the Philadelphia Area Industrial Energy Users Group (“PAIEUG”) (dated December 11, 2009), the Retail Energy Supply Association (“RESA”) (dated December 14, 2009), Direct Energy Services, LLC (“Direct Energy”) (dated December 14, 2009), Constellation NewEnergy, Inc. (“Constellation”) (dated December 16, 2009), and Dominion Retail, Inc. (“Dominion”) (dated December 3, 2009).³ The Petitions to Intervene were granted at the Prehearing Conference held on January 5, 2010, before Administrative Law Judge Cynthia Williams Fordham (the “ALJ”) to whom this matter was assigned.

Pursuant to the litigation schedule established at the Prehearing Conference, written direct, rebuttal and surrebuttal testimony was submitted by various parties. In addition, the parties engaged in extensive discovery. Throughout this proceeding, the parties discussed the possibility of resolving some or all of the issues by settlement or stipulation.

² *Id.*

³ Dominion’s Petition to Intervene was filed on December 3, 2009 but listed an incorrect docket number. Dominion requested that the Petition be transferred to the correct docket on January 4, 2010.

B. The Settlement

Before the scheduled hearings on March 4 and 5, 2010, the parties advised the ALJ that: (a) a settlement of all but two issues had been achieved amongst the Company and all parties except for the OTS; (b) the parties would like to reserve the outstanding two issues for briefing; and (c) cross-examination of witnesses on the remaining issues had been waived. The terms of the Settlement are set forth in a Joint Petition for Partial Settlement (“Joint Petition”) filed on March 22, 2010, which also contains the Joint Petitioners’ Statements in Support of the Settlement. In accordance with instructions from the ALJ, a Stipulation will be filed to admit all of the parties’ statements of testimony and exhibits.

C. Issues Reserved For Briefing

The items reserved for litigation involve: (1) whether PECO can terminate electric service to customers after January 1, 2011, based upon costs for EGS service incurred by such customers prior to January 1, 2011; and (2) whether PECO should be required to unbundle its generation-related uncollectible accounts expense from its distribution rates for collection from default service customers and also purchase EGS receivables at a discount corresponding to PECO’s uncollectible expense, implementation costs and any administrative costs associated with the Revised Electric POR Program.

II. ARGUMENT

A. PECO’s Ability To Terminate Service Based On EGS Charges Incurred Prior To January 1, 2011 Is Consistent With The Restructuring Settlement And Default Service Settlement

The ability of PECO to terminate service based on EGS charges was addressed in both PECO’s Restructuring Settlement⁴ and the Default Service Settlement. Under the Restructuring

⁴ On April 1, 1997, PECO submitted a comprehensive restructuring plan in accordance with the Competition Act. Subsequently, after extensive litigation and settlement proceedings before the Commission and in state and federal

Settlement, PECO is precluded from terminating electric service to a customer who is delinquent on payment of EGS charges until after December 31, 2010. *See Restructuring Settlement*, ¶ 22 (“Physical termination of service may only be permitted for failure to pay for EDC or [Provider of Last Resort] service.”) & ¶ 43 (“This settlement, including all of the terms and conditions set forth above, shall expire on December 31, 2010.”). In addition, the Default Service Settlement identifies certain minimum requirements for a revised purchase of receivables program, including the following: “PECO will have the ability to terminate service to a customer for the customer’s non-payment of supplier charges in the same manner and to the same extent that PECO could terminate service to such a customer for non-payment of EDC charges, subject to appropriate consumer protections to be developed in consultation with the parties to this Settlement.” *See Default Service Settlement*, ¶ 66.

Consistent with the Restructuring Settlement and Default Service Settlement, the Program provides that PECO may terminate service to customers for failure to pay EGS charges for basic electric supply, including unpaid charges that accrued before the Revised Electric POR Program’s implementation date (January 1, 2011). *See PECO St. No. 1*, pp. 13-14. The ability to terminate service for such charges will reduce Program implementation costs, simplify Program procedures, and clarify the operation of the Program for customers, EGSs and others. PECO estimates that it will avoid approximately \$500,000 in implementation costs if it has the ability to terminate service based on unpaid EGS charges incurred prior to January 1, 2011. The avoided system modifications would include the overhaul of processes for arrearage calculations, collections and terminations in order to create and maintain separately parallel paths for handling

courts, PECO and other parties submitted a joint petition for settlement (the “Restructuring Settlement”) which resolved all issues regarding PECO’s restructuring plan. The Commission approved the Restructuring Settlement on May 14, 1998. *See Application of PECO Energy Company for Approval of its Restructuring Plan Under Section 2806 of the Public Utility Code, et al.*, Docket Nos. R-000973953 and P-00971265.

supplier accounts receivable based on the dates those receivables were incurred. *See* PECO St. No. 1-R, p. 6.

All parties except the OCA and OSBA⁵ agree with, or do not oppose, the Company's proposal to terminate service for EGS charges incurred before January 1, 2011. The OCA contends that PECO's proposal would: (1) "alter" the Restructuring Settlement and its termination provision; and (2) "retroactively" change agreements between customers and EGSs. *See* OCA St. No. 1, p. 16. Significantly, the OCA has offered no evidence to support either contention. The Restructuring Settlement, and the Commission Order approving it, do not differentiate between EGS charges incurred before and after January 1, 2011, let alone mandate different treatment of those charges for termination purposes. Thus, PECO's proposal does not "alter" the Restructuring Settlement but rather is consistent with its plain language. Regarding customer agreements with EGSs, PECO notes that shopping customers will receive an advance notice concerning the change in termination policy. *See* Petition ¶ 24; PECO St. No. 1, p. 16. In fact, the content of that notice has been developed jointly with the parties to this proceeding, including the OCA, and is part of the Joint Petition. *See* Joint Petition, ¶ 9.F(1)-(4). For all these reasons, the OCA's proposal to limit the ability of PECO to terminate customers after December 31, 2010 should be rejected.⁶

⁵ The OSBA did not address the issue in testimony except to note that it would brief the issue, as appropriate. *See* OSBA St. No. 1, p. 3.

⁶ It is important to note that, should the Commission decide to adopt the OCA's proposal, the resulting additional costs for system modifications would be recovered from participating EGSs, along with all other implementation costs, through the temporary discount on purchased receivables.

B. The Implementation Costs Of PECO's Revised Electric POR Program Should Be Recovered Through A Temporary Receivables Discount And Uncollectible Accounts Expense Should Continue To Be Recovered Through Distribution Rates

PECO has proposed to employ an initial temporary discount of 0.2% on the receivables purchased by PECO to recover the implementation costs of the Revised Electric POR Program. The ongoing operating and administrative costs of the Program would be included in PECO's subsequent electric distribution base rate cases. PECO also proposes to continue to recover uncollectible expense (including the expense associated with purchased EGS receivables) in its distribution rates. *See* Petition ¶¶ 19-21; PECO St. No. 1, pp. 14-16. All parties except the OTS agree with, or do not oppose, the Company's proposed method for recovering POR-related costs.

The OTS recommends significant revisions to PECO's cost recovery method that it admits will "achieve the same result" as PECO's proposal. *See* OTS St. No. 1-SR, p. 3. In particular, OTS proposes that PECO apply a discount rate to purchased receivables which reflects not only implementation and administrative costs, but uncollectible accounts expense as well. OTS St. No. 1, p. 8. The OTS also recommends that PECO unbundle its generation-related uncollectible accounts expense from distribution rates and recover that expense from default service customers through a per-kWh surcharge, effective January 1, 2011, to be added to the price-to-compare. *Id.* at 9. The OTS contends that its proposal is appropriate because: (1) EGSs should bear the uncollectible accounts expense associated with EGS receivables; and (2) the proposed cost recovery method would purportedly avoid any subsidization of shopping customers by non-shopping customers, as shopping customers will bear uncollectible accounts expense through the price they pay EGSs for generation, and non-shopping customers will pay uncollectible accounts expense through the surcharge included in PECO's price-to-compare. *Id.*

at 10. The OTS provided its recommended calculation of the discount rate and appropriate default service surcharge in supplemental testimony. *See* OTS St. No. 1-S.

In surrebuttal testimony, the OTS' witness conceded that the uncollectible rate should be the same "for both shopping and non-shopping customers." OTS St. No. 1-SR, p. 4. Thus, under either PECO's proposal (i.e., uncollectible accounts expense recovered in distribution rates that apply to all customers) or the approach recommended by OTS (i.e., uncollectible accounts expense included in EGSs charges for shopping customers and in a separate surcharge applied only to default service customers), all customers will be paying the same level of uncollectible expense on a per-kWh basis. Because the rate would be the same for all customers under either approach, there is no risk of inequality or improper "subsidization" associated with PECO's cost recovery method.

Given the fact that the PECO and OTS proposals "achieve the same result," the relevant inquiry is which proposal will recover POR-related costs in a more efficient and appropriate manner. The OTS proposal will require separate tracking, on an ongoing basis, of POR-related implementation costs, administrative costs and uncollectible expense. It will also require that PECO develop and obtain Commission approval for a new surcharge to recover default service-related uncollectible expense from default service customers and make annual filings with the Commission under the associated adjustment clause. PECO's proposal, on the other hand, requires the separate tracking of POR-related implementation costs only, which will then be recovered directly through a temporary discount on purchased receivables. POR-related uncollectible expense, as well as any ongoing operating and administrative costs, will be recovered through distribution rates. PECO believes, and the EGSs agree, that its cost recovery

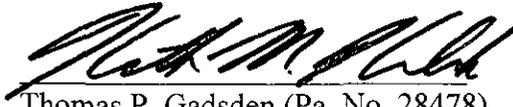
method is simpler and will be easier to administer. *See* RESA St. No. 1-R, p. 4; Dominion St. No. 1-R, p.7.

In addition to providing simplicity, PECO's proposal will appropriately support the development of retail competition. By recovering all uncollectible expense in its distribution rates, PECO will create a straightforward "level playing field" for all EGSs and default generation suppliers. When combined with the purchase of receivables without discount (after program implementation costs are recovered), PECO believes that this "level playing field" will provide significant support to retail competition in its territory. *See* PECO St. No. 1-R, pp. 14-15. It should also be noted that, pursuant to the Settlement, all parties other than the OTS have agreed that the issue of unbundling generation-related uncollectible accounts expense should be deferred until PECO's next Default Service proceeding. For all these reasons, the OTS cost recovery proposal should be rejected.

III. CONCLUSION

For the reasons set forth above, PECO's proposals concerning cost recovery and the ability to terminate service for unpaid EGS charges incurred before January 1, 2011 should be approved.

Respectfully submitted,



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**PETITION OF PECO ENERGY :
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REVISED ELECTRIC PURCHASE OF : DOCKET NO. P-2009-2143607
RECEIVABLES PROGRAM :**

CERTIFICATE OF SERVICE

I hereby certify and affirm that I have this day served a copy of the Main Brief of PECO Energy Company on the following persons in the matter specified in accordance with the requirements of 52 Pa. Code § 1.54:

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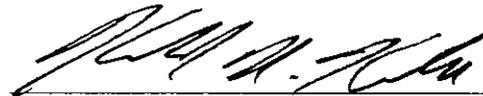
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