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April 14, 2010

**VIA FEDERAL EXPRESS**

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2nd Floor  
Harrisburg, PA 17120

**RECEIVED**

APR 14 2010

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

Re: Petition of PECO Energy Company for Expedited Approval of its Default Service Program and Rate Mitigation Plan - Docket No. P-2008-2062739

Dear Secretary McNulty:

Enclosed for filing please find an original and three (3) copies of the Petition of PECO Energy Company For Expedited Approval To Increase The Load Cap For The Small Commercial Customer Class In Its Spring 2010 Default Service Procurement in the above-referenced matter.

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

Kindly return a time-stamped copy of this cover letter in the self-addressed envelop that is enclosed. Thank you.

Very truly yours,



Kenneth M. Kulak

c: Administrative Law Judge Marlane R. Chestnut  
Certificate of Service (via electronic mail and First-Class Mail)



## I. BACKGROUND

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 and natural gas delivery service to approximately 475,000 customers in Southeast Pennsylvania.

2. On September 10, 2008, PECO filed its proposed program for procurement of default service supply in accordance with the requirements of Pennsylvania's Electricity Generation Customer Choice and Competition Act, as amended by Act 129 of 2008. *See* 66 Pa. C.S. § 2807(e)(3.1). Following extensive discovery and negotiations, PECO and the parties to its default service program proceeding entered into the Settlement, which the Commission approved in the Default Service Order.<sup>1</sup>

3. Pursuant to the Default Service Order, NERA Economic Consulting, Inc. ("NERA") was appointed as independent evaluator for PECO procurements under the default service program.

4. The Settlement, as approved by the Default Service Order, establishes certain requirements for PECO's procurement of default service supply, including that "[a] single bidder shall supply no more than sixty-five percent (65%) of the load of each procurement class (the 'load cap')." Default Service Order, ¶ 38.

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<sup>1</sup> The following parties joined PECO in the Joint Petition for Settlement: the Office of Trial Staff ("OTS"); the Office of Consumer Advocate ("OCA"); the Office of Small Business Advocate ("OSBA"); the Philadelphia Area Industrial Energy Users Group ("PAIEUG"); Constellation New Energy, Inc. and Constellation Energy Commodities Group, Inc. ("Constellation"); the City of Philadelphia ("City of Philadelphia"); Direct Energy Services, Inc. ("Direct Energy"); Dominion Retail, Inc. ("Dominion Retail"); the Retail Energy Supply Association ("RESA"); the Tenant Union Representative Network; Action Alliance of Senior Citizens of Greater Philadelphia and Association of Community Organizations for Reform Now ("TURN et al."); and Reliant Energy, Inc. ("Reliant"). Consolidated Edison Solutions, Inc. ("ConEd Solutions"), which was also a party to the case, did not oppose the Settlement.

5. To date, PECO's procurement of default service supply has been consistent with the 65% load cap.

## **II. JUSTIFICATION FOR LOAD CAP INCREASE**

6. PECO will be procuring products to meet the default service requirements of the residential, small commercial, medium commercial, and industrial customer classes this Spring. The complete Spring solicitation schedule is available at <http://www.pecoprocurement.com>.

7. In the Spring procurement, consistent with the Default Service Order, only three "tranches" (the obligation to serve a percentage of default service load) for the small commercial customer class will be available for bidding. Given the existing load cap of 65%, bidders will be limited to bidding for only one tranche, since the awarding of two tranches (i.e., 67%) would exceed the load cap.

8. In order to increase bidder participation in the Spring procurement for the small commercial customer class, NERA has recommended that the load cap be increased from 65% to 67% for this single procurement. This increase would allow a supplier to win two out of three tranches for delivery of the full requirements product, and NERA believes this possibility will make the product more attractive to potential bidders and help achieve a more competitive price.

9. This issue is not presented in procurements scheduled for other customer classes in Spring 2010 or in the future under the Default Service Order. Therefore, in order to implement this recommendation, PECO proposes that the first sentence of paragraph 38 of the Settlement be amended to provide as follows: "A single bidder shall supply no more than sixty-five percent (65%) of the load of each procurement class (the 'load cap'), except that during the

Spring 2010 procurement the load cap shall be raised to 67% for the small commercial customer class.”

10. PECO has discussed NERA’s recommendation and the proposed amendment with all parties to the Settlement and with ConEd Solutions and no party objects to the proposed amendment.<sup>2</sup>

### **III. REQUEST FOR EXPEDITED APPROVAL**

11. PECO requests that the Commission approve this Petition and the amendment no later than the public meeting presently scheduled for May 6, 2010. This request for expedited treatment is necessary so that the rules for the procurement are fully known to bidders before they are required to submit additional material relating to their participation in the Spring 2010 procurement.

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<sup>2</sup> RRI Energy, Inc., the successor to Reliant, also takes no position on the proposed amendment.

#### IV. CONCLUSION

Based upon the foregoing, PECO respectfully requests that the Commission grant this Petition and enter an order amending paragraph 38 of the Settlement to provide as follows: “[A] single bidder shall supply no more than sixty-five percent (65%) of the load of each procurement class (the ‘load cap’), except that during the Spring 2010 procurement the load cap shall be raised to 67% for the small commercial customer class.”

Respectfully submitted,



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April 14, 2010

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**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**PETITION OF PECO ENERGY** :  
**COMPANY FOR EXPEDITED** :  
**APPROVAL OF ITS DEFAULT** : **Docket No. P-2008-2062739**  
**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 Expedited Approval To Increase The Load Cap For The Small Commercial Customer Class In Its Spring 2010 Default Service Procurement in the above-captioned matter in the manner as set forth below, in accordance with the requirements of 52 Pa. Code § 1.54:

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APR 14 2010

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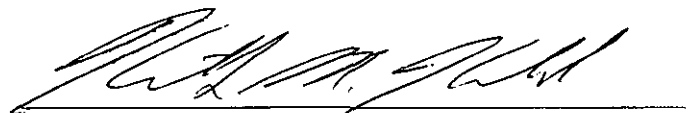
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Dated: April 14, 2010

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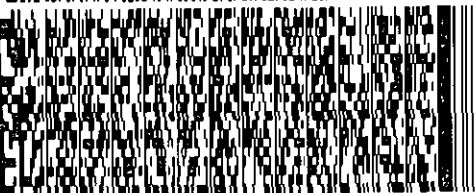
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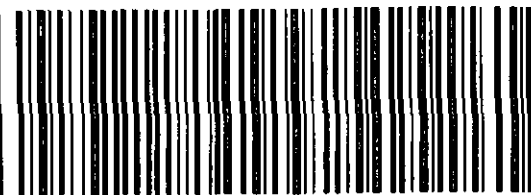
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