

Morgan, Lewis & Bockius LLP  
1701 Market Street  
Philadelphia, PA 19103-2921  
Tel: 215.963.5000  
Fax: 215.963.5001  
www.morganlewis.com

**Morgan Lewis**  
C O U N S E L O R S   A T   L A W

**Kenneth M. Kulak**  
Partner  
215.963.5384  
kkulak@MorganLewis.com

June 1, 2010

**RECEIVED**

JUN 1 2010

**VIA FEDERAL EXPRESS**

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

Rosemary Chiavetta, 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**

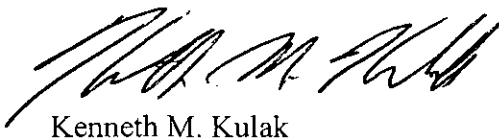
Dear Secretary Chiavetta:

Enclosed for filing are an original and nine (9) copies of the Reply of PECO Energy Company to the Exception of the Office of Trial Staff in the above-referenced proceeding. Also enclosed is a disk containing the Reply in PDF form. Pursuant to 52 Pa. Code § 1.11(a)(2), the enclosed Reply shall be deemed filed on June 1, 2010, which is the date it was deposited with Federal Express as shown on the Federal Express delivery receipt.

Copies of the enclosed Reply have been served upon the Administrative Law Judge and all parties as evidenced by the enclosed Certificate of Service. Also enclosed is an additional copy of this letter and of the Reply, which we request be date-stamped as evidence of filing and returned to us in the stamped, pre-addressed envelope provided.

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

Very truly yours,



Kenneth M. Kulak

KMK/tp  
Enclosures

Philadelphia Washington New York Los Angeles San Francisco Miami Pittsburgh Princeton Chicago Minneapolis  
Palo Alto Dallas Houston Harrisburg Irvine Boston London Paris Brussels Frankfurt Beijing Tokyo

**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** :

**REPLY OF PECO ENERGY COMPANY TO  
THE EXCEPTION OF THE OFFICE OF TRIAL STAFF**

**To The Recommended Decision of Administrative Law Judge  
Cynthia Williams Fordham**

**RECEIVED**  
JUN 1 2010  
PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

Anthony E. Gay  
(Pa. No. 74624)  
Jack R. Garfinkle  
(Pa. No. 81892)  
Exelon Business Services Company  
2301 Market Street  
P.O. Box 8699  
Philadelphia, PA 19101-8699

Thomas P. Gadsden  
(Pa. No. 28478)  
Kenneth M. Kulak  
(Pa. No. 75509)  
Catherine G. Vasudevan  
(Pa. No. 210254)  
Morgan, Lewis & Bockius LLP  
1701 Market Street  
Philadelphia, PA 19103-2921

June 1, 2010

## I. INTRODUCTION

On April 29, 2010, Administrative Law Judge Cynthia Williams Fordham (the “ALJ”) issued her decision (“Recommended Decision” or “R.D.”) recommending approval of the revised electric purchase of receivables program (the “Revised Electric POR Program” or “Program”) proposed by PECO Energy Company (“PECO” or the “Company”), as modified by the Joint Petition for Partial Settlement (“Joint Petition”) filed on March 22, 2010.<sup>1</sup> The ALJ also made recommendations with respect to specific issues reserved for briefing: (1) whether PECO should be permitted to terminate service to customers after January 1, 2011, for the non-payment of charges for electric generation supplier (“EGS”) service furnished before that date; and (2) how generation-related uncollectible accounts expense should be recovered after January 1, 2011. In particular, the ALJ recommended: (1) rejection of the Company’s proposal regarding termination for pre-2011 arrearages; and (2) approval of the Company’s proposal concerning generation-related uncollectible accounts expense. On May 19, 2010, the Company filed a limited Exception addressing the ALJ’s recommendation concerning pre-2011 arrearages.

The only other party to file an Exception to the Recommended Decision was the OTS, which excepted to the ALJ’s recommendation for recovery of generation-related uncollectible accounts expense. PECO herein replies to the Exception filed by the OTS.

---

<sup>1</sup> The Joint Petition was filed by PECO, the Office of Consumer Advocate (“OCA”), the Office of Small Business Advocate (“OSBA”), Constellation NewEnergy, Inc. (“Constellation”), the Retail Energy Supply Association (“RESA”), Direct Energy Services, LLC (“Direct Energy”), and Dominion Retail, Inc. (“Dominion”). The Philadelphia Area Industrial Energy Users Group (“PAIEUG”), which is also a party to this case, authorized the Joint Petitioners to represent that it did not oppose the Settlement. The Office of Trial Staff (“OTS”) is not a party to the Settlement and opposes the Settlement.

## II. ARGUMENT

### A. The ALJ Properly Rejected The OTS Proposal For Full Unbundling Of Uncollectible Accounts Expense

Under the Revised Electric POR Program, PECO proposes to purchase EGS accounts receivable at an initial, temporary discount of 0.2%. That discount is the means by which the Company will recover the costs it incurs to implement the Program. After PECO recovers its implementation costs, it will purchase EGS accounts receivable at their face amount. PECO also proposes to recover all of its uncollectible accounts expense, including that which arises from receivables purchased from EGSs under the Program, through its distribution rates. While PECO is not proposing any change in its distribution rates in this proceeding to reflect the Revised Electric POR Program, the Company's uncollectible accounts expense will be adjusted in future distribution base rate cases based on the Company's overall uncollectible accounts experience. Thus, under PECO's proposal, all customers, whether they shop or take default supply service, will pay uncollectible accounts expense through their distribution rates at a level that reflects the Company's average uncollectible accounts expense for each class of customers. This approach assures that uncollectible accounts expense is fairly apportioned among all customers and recovered on a non-bypassable basis.

The OTS is the only party that disagrees with the Company's approach. The OTS contends that PECO should be required to fully "unbundle" all generation-related uncollectible accounts expense from its distribution rates in this proceeding. To implement this approach, the OTS proposes that the Company: (1) attempt to separately identify, and quantify, the uncollectible accounts expense related to charges for default supply service and the uncollectible accounts expense it anticipates will arise from accounts receivable acquired from EGSs under the Revised Electric POR Program; (2) remove the default service uncollectible accounts expense

from its distribution rates and recover that cost under a new Section 1307 adjustment clause that would apply only to default service customers; and (3) recover uncollectible accounts expense related to EGS accounts receivable by discounting the price paid to EGSs to reflect the anticipated level of such expense. As should be evident, the OTS' approach is considerably more complicated than the Company's proposal. Additionally, it requires changes in rates that more appropriately should be considered in a base rate proceeding, which this case is not.<sup>2</sup>

The OTS contends that its proposal should be adopted in order to avoid the "egregious . . . insulation [of EGSs] from the cost of doing business," as the Revised Electric POR Program would allow the "improper shifting of costs" from EGSs to jurisdictional distribution ratepayers. *See* OTS Exception, pp. 4-6.<sup>3</sup> The OTS also contends that it is "implausible" that the Revised Electric POR Program could be in the public interest because the Commission has already approved a POR program for another utility (PPL Electric Utilities Corporation) that recovers uncollectible accounts expense in the manner that OTS prefers. *Id.* at 8-10.

The contentions made by the OTS are not supported by the evidence. First and foremost, OTS' own witness conceded that its unbundling proposal would actually "achieve the same result" as PECO's proposal. *See* OTS St. 1-SR, p. 3. This is because the OTS' witness also conceded that the uncollectible rate (uncollectible accounts expressed as a percent of revenue) would be the same "for both shopping and non-shopping customers." OTS St. 1-SR, p. 4. Thus, under PECO's proposal or the OTS' recommended approach, all customers within the same class, whether they "shop" or not, would pay the same level of uncollectible accounts expense

---

<sup>2</sup> In fact, all the parties to the Joint Petition have agreed that the issue of unbundling generation-related uncollectible accounts expense should be deferred until PECO's next Default Service proceeding. *See* Joint Petition, ¶ 9.H(1).

<sup>3</sup> PECO notes that the OTS also argues that the Company's proposal will result in shopping customers paying for uncollectible accounts expense twice – once in their generation rate and once in their distribution rate. OTS Exception, p. 6. RESA responded as follows: "[b]ecause POR significantly reduces an EGS's risk of non-payment, EGSs will remove any component included in their rates designed to account for this risk." RESA St. No. 1-R, p. 6.

expressed on a kWh basis. Because the rate would be the same for all customers under either approach, there is no risk of “improper shifting” of costs to “jurisdictional” customers.

Second, there is no basis for OTS’ contention that PECO’s proposal is unreasonable *per se* because the Commission has approved a pilot POR program for PPL Electric Utilities Corporation (“PPL”) that recovers uncollectible accounts expense in the manner that OTS prefers. The Commission’s Order approving the PPL pilot simply did not impose any obligations or restrictions on PECO (or any other electric distribution company other than PPL) regarding POR program cost recovery.<sup>4</sup> In addition, the cost recovery component of PPL’s POR program was not litigated but rather agreed to as part of a negotiated settlement which expires in December 2010. Finally, and as noted by the ALJ, the Commission has previously approved several other POR programs that have greater similarity to PECO’s Revised Electric POR Program than the PPL Program. *See* R.D., p. 46.

Because the PECO and OTS proposals “achieve the same result,” and PECO’s proposal is not inconsistent with prior Commission Orders approving POR programs, the relevant inquiry is which proposal will recover costs in a more efficient and appropriate manner. PECO’s proposal clearly achieves that result. The OTS’ proposal, on the other hand, would require PECO to: (1) identify and quantify costs embedded in its base rates and adjust its base rates outside of a base rate proceeding; (2) develop and obtain Commission approval for a new surcharge to recover default service-related uncollectible accounts expense from default service customers; and (3) make annual filings with the Commission under that adjustment clause. That effort is unwarranted at this time, since the Revised Electric POR Program has yet to be

---

<sup>4</sup> *See Petition of PPL Utilities Corporation Requesting Approval of a Voluntary Purchase of Accounts Receivables Program and Merchant Function Charge*, Docket No. P-2009-2129502 (Order entered November 19, 2009).

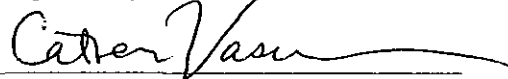
implemented and there are no data from the operation of the Program on which to base the kinds of calculations the OTS' proposal requires.

In summary, the ALJ properly concluded that PECO's proposal "is reasonable and more cost effective than the unbundling proposal advanced by the Office of Trial Staff." See R.D., p. 46.

### III. CONCLUSION

For the foregoing reasons, the Commission should reject the Exception filed by the Office of Trial Staff and adopt the Recommended Decision with the modifications described in PECO Energy Company's Exception.

Respectfully submitted,



Thomas P. Gadsden (Pa. No. 28478)  
Kenneth M. Kulak (Pa. No. 75509)  
Catherine G. Vasudevan (Pa. No. 210254)  
Morgan, Lewis & Bockius LLP  
1701 Market Street  
Philadelphia, PA 19103-2921  
Phone: 215.963.5234  
Fax: 215.963.5001  
E-mail: [tgadsden@morganlewis.com](mailto:tgadsden@morganlewis.com)

Anthony E. Gay (Pa. No. 74624)  
Jack R. Garfinkle (Pa No. 81892)  
Exelon Business Services Company  
2301 Market Street  
P.O. Box 8699  
Philadelphia, PA 19101-8699  
Phone: 215.841.4635  
Fax: 215.568.3389  
E-mail: [anthony.gay@exeloncorp.com](mailto:anthony.gay@exeloncorp.com)

For PECO Energy Company

Dated: June 1, 2010

**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** :  
:

**CERTIFICATE OF SERVICE**

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

**VIA ELECTRONIC MAIL AND OVERNIGHT DELIVERY**

Honorable Cynthia W. Fordham  
Administrative Law Judge  
Pennsylvania Public Utility Commission  
Office of Administrative Law Judge  
Suite 4063  
801 Market Street, Suite 4063  
Philadelphia PA 19107  
[cfordham@state.pa.us](mailto:cfordham@state.pa.us)

Richard A. Kanaskie  
Senior Prosecutor  
Office of Trial Staff  
Commonwealth Keystone Building  
P.O. Box 3265  
400 North Street, 2nd Floor West  
Harrisburg, PA 17105-3265  
[rkanaskie@state.pa.us](mailto:rkanaskie@state.pa.us)

Daniel G. Asmus  
Assistant Small Business Advocate  
Office of Small Business Advocate  
Suite 1102, Commerce Building  
300 North Second Street  
Harrisburg, PA 17101  
[dasmus@state.pa.us](mailto:dasmus@state.pa.us)

**RECEIVED**

JUN 1 2010

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

Tanya J. McCloskey  
Senior Assistant Consumer Advocate  
Barrett C. Sheridan  
Assistant Consumer Advocate  
Pennsylvania Office of Consumer Advocate  
555 Walnut Street  
5th Floor Forum Place  
Harrisburg, PA 17101-1923  
[tmccloskey@paoca.org](mailto:tmccloskey@paoca.org)  
[bsheridan@paoca.org](mailto:bsheridan@paoca.org)  
[jhorner@paoca.org](mailto:jhorner@paoca.org)

Daniel Clearfield  
Deanne M. O'Dell  
Eckert Seamans Cherin & Mellott, LLC  
213 Market Street - 8th Floor  
Harrisburg, PA 17101  
[dclearfield@eckertseamans.com](mailto:dclearfield@eckertseamans.com)  
[dodell@eckertseamans.com](mailto:dodell@eckertseamans.com)

*Counsel for the Retail Energy Supply Association  
and Direct Energy Services, LLC*

Todd S. Stewart  
Hawke McKeon & Sniscak LLP  
100 North Tenth Street  
P.O. Box 1778  
Harrisburg, PA 17105-1778  
[tsstewart@hmslegal.com](mailto:tsstewart@hmslegal.com)

*Counsel for Dominion Retail, Inc.*

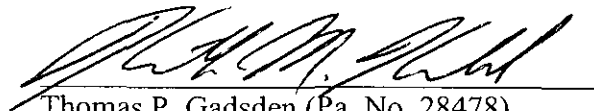
Charis Mincavage  
Barry A. Naum  
Carl J. Zwick  
McNees, Wallace & Nurick LLC  
P.O. Box 1166  
100 Pine Street  
Harrisburg, PA 17108-1166  
[cmincavage@mwn.com](mailto:cmincavage@mwn.com)  
[bnaum@mwn.com](mailto:bnaum@mwn.com)  
[czwick@mwn.com](mailto:czwick@mwn.com)

*Counsel for the Philadelphia Area  
Industrial Energy Users Group*

Christopher A. Lewis  
Christopher R. Sharp  
Melanie J. Tambolas  
Blank Rome LLP  
One Logan Square  
130 N. 18th Street  
Philadelphia, PA 19103-6998  
[lewis@blankrome.com](mailto:lewis@blankrome.com)  
[sharp@blankrome.com](mailto:sharp@blankrome.com)  
[tambolas@blankrome.com](mailto:tambolas@blankrome.com)

*Counsel for Constellation NewEnergy, Inc.*

Divesh Gupta  
Senior Counsel  
Constellation Energy  
111 Market Place, Suite 500  
Baltimore, MD 21202  
[divesh.gupta@constellation.com](mailto:divesh.gupta@constellation.com)



Thomas P. Gadsden (Pa. No. 28478)  
Kenneth M. Kulak (Pa. No. 75509)  
Catherine G. Vasudevan (Pa. No. 210254)  
Morgan, Lewis & Bockius LLP

*Counsel for PECO Energy Company*

June 1, 2010

