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July 12, 2010

VIA FEDERAL EXPRESS

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

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JUL 12 2010
PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

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 three (3) copies of the Answer of PECO Energy Company to the Petition for Relief of the Office of Small Business Advocate in the above-referenced proceeding. Pursuant to 52 Pa. Code § 1.11(a)(2), the enclosed Answer shall be deemed filed on July 12, 2010, which is the date it was deposited with Federal Express as shown on the Federal Express delivery receipt.

Copies of the enclosed Answer 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 Answer, 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

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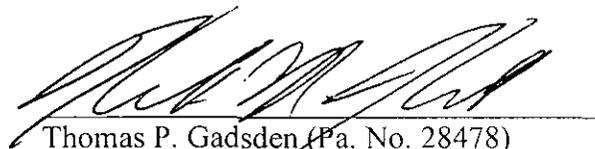
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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU



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

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

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**ANSWER OF PECO ELECTRIC COMPANY
TO THE OFFICE OF SMALL BUSINESS ADVOCATE'S
PETITION FOR RELIEF**

JUL 12 2010
PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Pursuant to 52 Pa. Code §§ 5.61(e) and 5.572(e), PECO Energy Company ("PECO") submits this Answer to the Office of Small Business Advocate's ("OSBA's") Petition for Relief ("Petition") in which the OSBA seeks "clarification" of the Order entered by the Pennsylvania Public Utility Commission (the "Commission") on June 18, 2010, at the above-referenced docket (the "Order").

In the Order, the Commission approved a Joint Petition for Partial Settlement (the "Settlement") providing for implementation of PECO's revised electric generation supplier ("EGS") purchase of receivables program ("Revised POR Program" or "Program") in accordance with the earlier settlement of PECO's default service program.¹ The Commission also ruled on an issue reserved for litigation by the Settlement, concluding that PECO could terminate service to customers for non-payment of EGS charges incurred for service prior to January 1, 2011, when PECO's default service program and the Revised POR Program are scheduled to commence.

In its Petition, the OSBA seeks "clarification" regarding three issues: (1) whether PECO has the right to terminate for unpaid charges for EGS service billed to a customer by an EGS

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).

prior to January 1, 2011 through PECO's dual billing option (in which PECO and the EGS send separate bills to a customer for service); (2) the extent, if any, to which the consumer protections of 52 Pa. Code Ch. 56 will be applicable to a non-residential customer; and (3) if PECO has the right to terminate for unpaid charges for EGS service billed to a customer by an EGS prior to January 1, 2011 through dual billing, whether those charges will be considered to have been billed when PECO bills the customer on or after January 1, 2011, or whether those charges will be considered to have been billed when the EGS originally billed the customer. The Commission should deny OSBA's Petition, as no clarification of the Order is necessary.

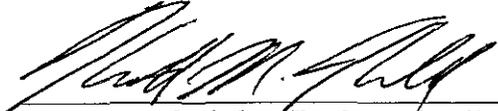
Issues (1) and (3) need not be addressed because PECO will only purchase EGS receivables created under the consolidated billing option, i.e., when PECO sends a single bill to a customer that includes both EGS and PECO charges. Order, p. 35. Indeed, EGS receivables created through dual billing will **not** be purchased by PECO. Although OSBA suggests that PECO intends to purchase dual billing receivables because those are the only EGS receivables that will exist prior to January 1, 2011 (Petition, ¶ 33), the OSBA is simply incorrect. For example, an EGS receivable created on January 1, 2011 under the consolidated billing option (and thus eligible for service) could include EGS service provided on December 31, 2010. As the record in this proceeding made clear, the ability for PECO to terminate service based upon such a receivable would significantly simplify and reduce the cost of implementing the Revised POR Program, and the Commission properly approved this component of the Program. Order, pp. 25-26.

The only other issue presented by the Petition is OSBA's request that the Commission "clarify" the extent to which the consumer protections of Chapter 56 of the Commission's regulations (52 Pa. Code 56.1 *et seq.*) will be applicable to a non-residential customer.

Specifically, the OSBA asks the Commission to direct that the limitation on a utility requiring payment of a residential bill which is more than four years old should also apply to non-residential customer EGS receivables previously purchased by PECO. Petition, ¶¶ 38-43 (citing *Angie's Bar v. Duquesne Light Co.*, 72 Pa. PUC 213, 217 (1980)). Again, no clarification is needed: Chapter 56 is not applicable to commercial customers by its terms, as the OSBA acknowledges. *See generally* 52 Pa. Code § 56.1; Petition, ¶ 38. PECO's statement in its Reply Brief cited by the OSBA that the Revised POR Program would be consistent with *applicable* provisions of Chapter 56 (Petition, ¶ 39) did not represent agreement that non-residential customers would be entitled to any residential customer protections. Furthermore, OSBA's reliance on *Angie's Bar* is misplaced. In that case, the customer was unaware of the improper wiring arrangement that led to charges for which the utility sought payment. In contrast, under the Revised POR Program, the customer will be subject to termination for EGS charges that were billed earlier by PECO, purchased by PECO as a receivable, and not ever paid. In these circumstances, there is no basis to extend the four-year limitation on a utility's ability to collect payment for service to non-residential customers.

For the foregoing reasons, the Petition for Relief of the Office of Small Business Advocate should be denied.

Respectfully submitted,



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SECRETARY'S BUREAU

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Dated: July 12, 2010

For PECO Energy Company

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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SECRETARY'S BUREAU

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 Answer of PECO Energy Company to the Petition for Relief of the Office of Small Business Advocate on the following persons in the matter specified in accordance with the requirements of 52 Pa. Code § 1.54:

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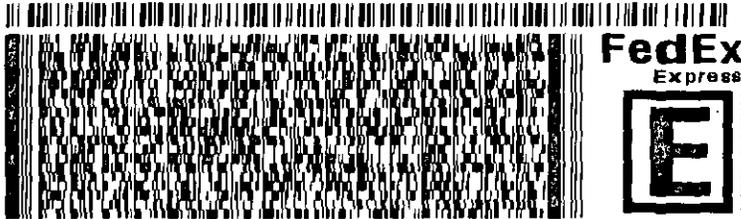
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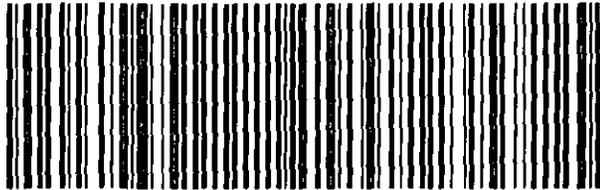


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