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January 28, 2011

ORIGINAL

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VIA FEDERAL EXPRESS

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, P.O. Box 3265
Harrisburg, PA 17105-3265

**Re: Petition of PECO Energy Company For Approval of its Smart Meter Technology
Procurement and Installation Plan – Petition for Approval of PECO Energy
Company's Initial Dynamic Pricing and Customer Acceptance Plan,
Docket No. M-2009-2123944**

Dear Secretary Chiavetta:

Enclosed for filing at the above-captioned docket are: (1) an original and three copies of the Joint Petition For Partial Settlement (Joint Petition) with all Exhibits and Statement in Support attached; and (2) an original and three copies of a Motion for Admission of Testimony and Exhibits (Motion). Also enclosed is a disk containing the Joint Petition filing in a searchable PDF format.

As evidenced by the attached Certificate of Service, copies of the Joint Petition and Motion have been served upon the presiding Administrative Law Judge and upon all active parties.

Pursuant to 52 Pa. Code § 1.11(2), the enclosed Joint Petition and Motion should be deemed filed on the date shown on the express delivery receipt attached to the delivery envelope. Accordingly, please date stamp the extra copies of this letter, the Joint Petition and the Motion and return them to us in the postage-paid, return-addressed envelope provided.

Rosemary Chiavetta, Secretary
January 28, 2011
Page 2

Should you have any questions, please feel free to call me at the number shown above. Thank you.

Sincerely,



Catherine G. Vasudevan
CGV/tp - Enclosures

c: Honorable Marlane R. Chestnut
Per Certificate of Service

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

 ORIGINAL

PETITION OF PECO ENERGY :
COMPANY FOR APPROVAL OF ITS :
SMART METER TECHNOLOGY :
PROCUREMENT AND INSTALLATION : DOCKET NO. M-2009-2123944
PLAN – PETITION FOR APPROVAL OF :
PECO ENERGY COMPANY’S INITIAL :
DYNAMIC PRICING AND CUSTOMER :
ACCEPTANCE PLAN :

JOINT PETITION FOR PARTIAL SETTLEMENT

January 28, 2011

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Exhibits and Statements

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Exhibit 2	Appendix A to PECO Statement No. 3
Statement A	Statement in Support of Joint Petition for Partial Settlement of PECO Energy Company
Statement B	Statement in Support of Joint Petition for Partial Settlement of the Office of Consumer Advocate
Statement C	Statement in Support of Joint Petition for Partial Settlement of the Office of Small Business Advocate

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

 **ORIGINAL**

**PETITION OF PECO ENERGY :
COMPANY FOR APPROVAL OF ITS :
SMART METER TECHNOLOGY :
PROCUREMENT AND INSTALLATION : DOCKET NO. M-2009-2123944
PLAN – PETITION FOR APPROVAL OF :
PECO ENERGY COMPANY’S INITIAL :
DYNAMIC PRICING AND CUSTOMER :
ACCEPTANCE PLAN :**

JOINT PETITION FOR PARTIAL SETTLEMENT

**TO THE HONORABLE MARLANE R. CHESTNUT, ADMINISTRATIVE LAW
JUDGE:**

PECO Energy Company (“PECO” or the “Company”); the Office of Consumer Advocate (“OCA”); and the Office of Small Business Advocate (“OSBA”) (collectively, the “Joint Petitioners”), by their respective counsel, submit this Joint Petition For Partial Settlement (“Settlement”) of all but one issue in the above-captioned proceeding and request that Administrative Law Judge Marlane R. Chestnut (the “ALJ”) approve the Settlement without modification.¹ The item reserved for litigation by the Joint Petitioners involves whether the development and implementation costs of PECO’s Initial Dynamic Pricing and Customer Acceptance Plan (“Dynamic Pricing Plan” or “Plan”) which are allocated to Default Service Procurement Classes 1, 2, and 3 should be collected from both shopping and non-shopping customers. In support of this Settlement, the Joint Petitioners represent as follows:

¹ The Office of Trial Staff (“OTS”), Direct Energy Services, LLC and Direct Energy Business, LLC (collectively “Direct Energy”) and the Philadelphia Area Industrial Energy Users Group (“PAIEUG”), which are also parties to this case, have authorized the Joint Petitioners to represent that they do not oppose the Settlement.

I. BACKGROUND

1. On October 28, 2010, PECO petitioned the Pennsylvania Public Utility Commission (the “Commission”) to approve the Company’s Dynamic Pricing Plan. The Plan continues PECO’s implementation of its Smart Meter Technology Procurement and Installation Plan (“Smart Meter Plan”)². In particular, the Plan explains how the Company will test two initial dynamic rate options (Critical Peak Pricing (“CPP”) and Time-of-Use (“TOU”) Pricing) to determine effective combinations of rate design, technology, marketing and educational strategies for customers. In its Petition, PECO requested that the Commission: (1) find that the Dynamic Pricing Plan satisfies the requirements of Act 129 of 2008, 66 Pa. C.S. § 2807(f) (“Act 129” or the “Act”), and the Commission’s May 6, 2010 Order approving PECO’s Smart Meter Plan; and (2) approve PECO’s proposed tariff provisions and recovery of Dynamic Pricing Plan costs through the Company’s Generation Supply Adjustment (“GSA”) filings.³

2. Accompanying its Petition, PECO filed its Dynamic Pricing Plan as well as the prepared direct testimony and accompanying exhibits of Frank J. Jiruska (PECO Statement No. 1); Dr. Stephen S. George (PECO Statement No. 2); Dr. Ahmad Faruqui (PECO Statement No. 3); and William J. Patterer (PECO Statement No. 4).

3. On November 4, 2010, a Secretarial Letter was issued directing parties seeking to intervene to file the appropriate notices/petitions by November 29, 2010. The Secretarial Letter also directed the Office of Administrative Law Judge to proceed in this matter such that the Administrative Law Judge could issue a Recommended Decision by February 28, 2011.

² See *Petition of PECO Energy Company for Approval of its Smart Meter Technology Procurement and Installation Plan*, Docket No. M-2009-2123944 (Order entered May 6, 2010).

³ PECO’s GSA was approved at Docket No. P-2008-2062739.

4. On November 29, 2010, Direct Energy, the Retail Energy Supply Association (“RESA”) and PAIEUG each filed Petitions to Intervene. Also on November 29, 2010, an Answer was filed by the OCA and a Protest and Verification were filed by the OSBA. The OTS filed a Notice of Appearance on December 1, 2010.

5. In light of the expedited schedule contained in the November 4, 2010 Secretarial Letter and by agreement of the parties and ALJ Chestnut, no prehearing conference was held. On December 9, 2010, ALJ Chestnut issued a Prehearing Order granting the Petitions to Intervene filed by Direct Energy, RESA⁴ and PAIEUG and establishing a schedule for the submission of testimony and the conduct of hearings. Evidentiary hearings were scheduled for January 20-21, 2011.

6. On December 23, 2010, two statements of direct testimony and accompanying exhibits were submitted by the OCA. On January 11, 2011, PECO and the OSBA submitted a total of five statements of rebuttal testimony and accompanying exhibits. On January 19, 2011, two statements of surrebuttal testimony and accompanying exhibits were submitted by the OCA.

7. Subsequent to the issuance of the Prehearing Order, the parties to the proceeding engaged in various discussions to try to achieve a settlement of some or all of the issues in this case. As a result of those negotiations, the Joint Petitioners were able to reach the Settlement set forth herein.

8. Before the scheduled hearings on January 20 and 21, 2011, the parties advised the ALJ that: (a) a settlement of all but one issue had been achieved; and (b) cross-examination of

⁴ On December 21, 2010, RESA filed a Petition for Leave to Withdraw Intervention from this proceeding.

witnesses had been waived. Based on these representations, the ALJ cancelled the scheduled hearings.

II. TERMS AND CONDITIONS OF SETTLEMENT

9. Except as provided below, the Joint Petitioners agree that PECO's Dynamic Pricing Plan should be approved as filed, including the tariff revisions which are shown in Exhibit 1 to this Joint Petition.

A. PJM's Proposed New Demand Response Products

PECO will monitor PJM's request to the Federal Energy Regulatory Commission, filed on December 2, 2010 at Docket No. ER11-2288-000, for approval of two new demand response products. If PECO's peak periods are impacted in 2014 or beyond, appropriate adjustments will be made to the Plan's Critical Peak Pricing ("CPP") and Time-Of-Use ("TOU") rates in consultation with stakeholders.

B. Stakeholder Involvement

PECO will continue the stakeholder process, including convening periodic stakeholder meetings and the meeting specified in Section H below, as Plan implementation moves forward.

C. Additional TOU Test Cells

PECO will add five additional TOU test cells to the Plan, as follows:

1. For Rate R Offer
 - a. TOU without incentive in the Spring of 2013;
 - b. TOU with incentive but without first year bill protection in the Fall of 2012;
 - c. TOU with incentive plus alternate message in the Spring of 2013; and
 - d. TOU with enhanced education in the Spring of 2013.

2. For Rate RH Offer

- a. TOU with incentive in the Spring of 2013.

D. Payment Arrangements

Residential customers who are currently in default on a payment arrangement or who currently are making payments subject to a payment arrangement will not be eligible to enroll in the Plan's CPP and TOU rates. If PECO is contacted by a residential customer that has enrolled in the Plan's CPP or TOU rate and is experiencing difficulty making timely bill payments, the Company shall take the following steps:

- a. Move the customer to a separate research test cell focused on payment troubled customers.
- b. Offer the customer first year bill protection for the entire first 12 months on the CPP or TOU rate if they are not already in a test cell that offers it.
- c. Offer the customer a payment agreement specific to any arrearages incurred while enrolled on the CPP or TOU rate that is suitable under the Company's guidelines for payment arrangements for the customer's circumstance.
- d. Prior to the expiration of the bill protection feature, communicate and discuss with the customer whether to remain on the CPP or TOU rate given the payment problems encountered by the customer.

E. Use Of Surveys

PECO will ask a representative sample of customers who decided against enrolling in the TOU or CPP rates the reason for the decision against enrollment. PECO will maintain and report on the information regarding these reasons.

PECO will also monitor the drop-out rates for CPP and TOU customers as the Plan is implemented and work with the stakeholder group to determine whether surveying those customers could provide valuable information regarding the programs.

PECO will perform a survey of or conduct a focus group with vulnerable customers in the pilot program to gain further understanding of the experiences of vulnerable customers in responding to the pilot program rates. Information to be collected shall include the efforts or strategies that customers use to respond to the pilot program rates. PECO should seek to identify a group of customers, including customers with low to moderate incomes, customers of advanced age, and customers with disability, for this purpose. PECO shall work with its stakeholder group to determine other information that should be collected as part of this process.

F. Methodology Provided In CPP And TOU Riders

In each CPP and TOU rider, PECO will include a formula that sets forth how the rate is to be calculated. *See Exhibit 1.*

G. Sourcing Generation Supply And Rate Design

1. From Plan inception through the end of PECO's currently approved default service plan on May 31, 2013

The Company will utilize the methodology described in Appendix A to PECO Energy Company Statement No. 3 (the Direct Testimony of Dr. Ahmad Faruqui) to calculate the CPP and TOU rates. *See Exhibit 2 (a copy of Appendix A).*

The Company will not perform any reconciliation of revenues collected with respect to changes in load or shifted demand for pilot program participants. PECO agrees to forego recovery of any revenue collection shortfall associated with the pilot program participants. PECO will reflect changes in usage patterns with respect to its dynamic pricing programs in its future rate proceedings.

2. For the default service plan period that will begin on June 1, 2013

PECO will address the issues of sourcing and pricing generation supply for dynamic pricing service, the need for a separate Generation Supply Adjustment and a reconciliation

mechanism for price differences between forward and actual market prices as part of its next default service plan filing.

H. Further Program Considerations

PECO will further consider the design of other forms of dynamic pricing rate options that would be open to voluntary participation by all customers, including low income and CAP customers. These other dynamic rate options include, but are not limited to, a peak time rebate program. PECO will report to the parties and its stakeholder group regarding its evaluation of other dynamic rate options. The Company will explain its decision and reasoning for incorporating or declining to incorporate one or more of these additional dynamic rate options in its scheduled interim report to the Commission, which will be filed on or before December 31, 2013. Copies of the report will be provided to the parties and its stakeholder group.

I. Allocation Of Plan Development Costs

For the purpose of this proceeding only, the Joint Petitioners agree that PECO's initial method for the assignment of costs to Default Service Procurement Classes 1, 2 and 3 is accepted. No costs will be assigned to Default Service Procurement Class 4 (large commercial and industrial customers). All costs incurred for the TOU rate program shall be attributed to Default Service Class 1 (residential customers). Readily attributable costs for the CPP rate program shall be directly assigned to the Default Service Class for which costs are incurred. All other costs which cannot be directly assigned shall be allocated to Default Service Classes 1, 2, and 3 in proportion to each class's default service load.

III. THE SETTLEMENT IS IN THE PUBLIC INTEREST

10. PECO, OCA and OSBA have each prepared, and attached to this Joint Petition, Statements in Support identified as Statements A through C, respectively, setting forth the bases on which they believe the Settlement is in the public interest.

11. The Joint Petitioners submit that the Settlement is in the public interest for the following additional reasons:

- ***Substantial Litigation And Associated Costs Will Be Avoided.*** The Settlement amicably and expeditiously resolves a number of important and potentially contentious issues. The administrative burden and costs to litigate these matters to conclusion would be significant.
- ***The Settlement Is Consistent With Commission Policies Promoting Negotiated Settlements.*** The Joint Petitioners arrived at the Settlement terms after conducting discovery and engaging in in-depth discussions over several weeks. The Settlement terms and conditions constitute a carefully crafted package representing reasonable negotiated compromises on the issues addressed herein. Thus, the Settlement is consistent with the Commission's rules and practices encouraging negotiated settlements (*see* 52 Pa. Code §§ 5.231, 69.391, 69.401), and, with the ALJ's approval of the Motion For Admission Of Testimony And Exhibits being submitted contemporaneously herewith, is supported by a substantial record.

IV. ADDITIONAL TERMS AND CONDITIONS

12. The Commission's approval of the Settlement shall not be construed as approval of any party's position on any issue, except to the extent required to effectuate the terms and

agreements of the Settlement. Accordingly, this Settlement may not be cited as precedent in any future proceeding, except to the extent required to implement this Settlement.

13. It is understood and agreed among the Joint Petitioners that the Settlement is the result of compromise and does not necessarily represent the position(s) that would be advanced by any party in this or any other proceeding, if it were fully litigated.

14. This Settlement is being presented only in the context of this proceeding in an effort to resolve the proceeding in a manner that is fair and reasonable. The Settlement is the product of compromise. This Settlement is presented without prejudice to any position which any of the parties may have advanced and without prejudice to the position any of the parties may advance in the future on the merits of the issues in future proceedings, except to the extent necessary to effectuate the terms and conditions of this Settlement.

15. This Settlement is conditioned upon the Commission's approval of the terms and conditions contained herein without modification. If the Commission should disapprove the Settlement or modify any terms and conditions herein, this Settlement may be withdrawn by any of the Joint Petitioners upon written notice to the Commission and all active parties within five (5) business days following entry of the Commission's Order and, in such event, shall be of no force and effect. In the event that the Commission disapproves the Settlement or the Company or any other Joint Petitioner elects to withdraw the Settlement as provided above, the Joint Petitioners reserve their respective rights to fully litigate this case, including, but not limited to, presentation of witnesses, cross-examination and legal argument through submission of Briefs, Exceptions and Replies to Exceptions.

16. If the ALJ, in her Recommended Decision, recommends that the Commission adopt the Settlement as herein proposed without modification, the Joint Petitioners agree to

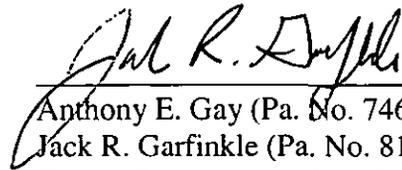
waive the filing of Exceptions with respect to any issues addressed by the Settlement. However, the Joint Petitioners do not waive their rights to file Exceptions with respect to any modifications to the terms and conditions of this Settlement, or any additional matters proposed by the ALJ in her Recommended Decision (including the ALJ's determination regarding the issue reserved for briefing). The Joint Petitioners also reserve the right to file Replies to any Exceptions that may be filed.

WHEREFORE, the Joint Petitioners, by their respective counsel, respectfully request as follows:

1. That Administrative Law Judge Chestnut and the Commission approve the Settlement as set forth herein, including all terms and conditions thereof;
2. That the Commission proceeding at Docket No. M-2009-2123944 be marked closed following a Commission decision on the issue reserved for litigation; and

3. That the Commission enter an Order, following a Commission decision on the issue reserved for litigation, evidencing its approval of the Settlement and terminating the proceeding.

Respectfully submitted,

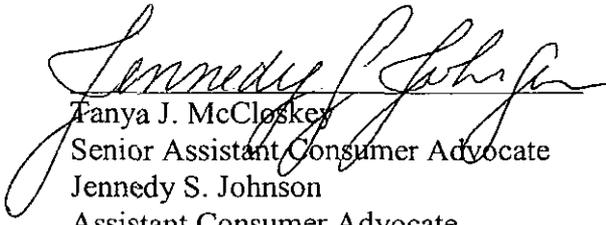


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January 28, 2011

EXHIBIT

1

ORIGINAL

PECO Energy Company

Electric Service Tariff

COMPANY OFFICE LOCATION

2301 Market Street
Philadelphia, Pennsylvania 19101

For List of Communities Served, See Page 4.

Issued XXXXX

Effective June 1, 2012

BY: D. P. O'Brien – President
PECO Energy Distribution Company
2301 MARKET STREET
PHILADELPHIA, PA. 19101

NOTICE.

LIST OF CHANGES MADE BY THIS SUPPLEMENT

Applicability Index of Rider – XXXXX Revised Page No. 65

Updated to include Critical Peak Price Rider and Residential Time of Use Rider.

Critical Peak Price (CPP) Rider – XXXXX Page No. 73A and XXXXX Page No. 73 B

New Rider added.

Residential Time of Use Service Rider XXXXXX Page No. 83A and XXXXX Page No. 83B

New Rider added.

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APPLICABILITY INDEX OF RIDERS
 Introductory Statement

Customers under different rates of this Tariff frequently desire services or present situations and conditions of supply which require special supply terms, charges or guarantees or which warrant modification of the amount or method of charge from the prices set forth in the Base Rate under which they are provided service. Modifications for such conditions are defined by rider provisions included as a part of this Tariff. Riders may be employed when applicable, with or without signed agreement between the customer and the Company as the case may require, notwithstanding anything to the contrary contained in the Base Rate to which the rider is applied.

Riders	Page No.	R	RT	RH	RS	OP	GS	PD	HT	POL	SL-P	SL-S	SL-E	EP	BLI	AL
Auxiliary Service	66-68	X	X	X	X	X	X	X	X							
CAP Rider	69-70	X		X												
Casualty	71	X	X	X	X	X	X	X	X					X		
Construction	72							X	X					X		
Cooling Therm. Storage HT	73								X							
Critical Peak Price Rider	73A-73B	X		X		X	X	X	X							
Economic Development	74-75															
Emergency Energy Conservation	76								X					X		
Interruptible Rider Mandatory	77															
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Investment Return Guarantee	79						X	X	X							
Night Service GS	80						X									
Night Service HT	81								X					X		
Night Service PD	82							X								
Receivership	83	X	X	X	X	X	X	X	X							
Residential Time-Of-Use Service Rider	83A - 83B	X		X		X										
Seasonal Capacity Charge	84								X							
Temporary Service	85	X		X	X	X	X	X	X							
Transformer Rental	86							[1]	[1]							
Voluntary Market Price Transition Deferral Rider	87															
Wind Energy Service	88	X		X			X	X	X					X		

(C)

(C)

NOTES: [1] Rider restricted to customers served prior to October 15, 1983.

(C) Denotes Change

CRITICAL PEAK PRICE (CPP) RIDER

(C)

AVAILABILITY:

This rider is available on or after June 1, 2012 to customers who have a smart meter installed and are served under Rate R Residential Service, Rate R-H Residential Heating Service, Rate OP Residential Off-Peak Service, Rate GS General Service, Rate PD Primary Distribution and Rate HT High Tension who choose to receive Default Provider of Last Resort (PLR) Service from the Company for procurement classes 1, 2, and 3. This rider will remain in effect until May 31, 2015, at such time the Company may choose to continue, terminate, or change this rider. This rider can not be used in conjunction with the Residential Time-of-Use Service Rider or the Customer Assistance Program (CAP) Rider.

RATE IMPACT: Rates R, RH, OP, GS, PD and HT, including all their terms and guarantees, are applicable to service on this rider except for the Energy and Capacity Charges. The Energy and Capacity Charges will be calculated for critical peak and off-peak hours. The baseline Energy and Capacity Charges will be calculated quarterly basis using the following formula:

Baseline $GSA_{CPP(n)} = (C_{(n)} + A_{(n)}) / S_{(n)} * 1 / (1 - T) * (1 - ALL_{(n)}) / (1 - LL_{(i)}) * PF + WC$ where:

n = applicable default service procurement class (where n = 1, 2 or 3)

C = The sum of the amounts paid to the full requirements suppliers providing the power for the quarter, the spot market purchases for the quarter, plus the cost of any other energy acquired through short or long term contracts during the period being reconciled. Cost shall include energy, capacity and ancillary services, distribution line losses, cost of complying with the Alternative Energy Portfolio Standards, and any other load servicing entity charges other than network transmission service and costs assigned under the Regional Transmission Expansion Plan. Ancillary services shall include any allocation by PJM to PECO default service associated with the failure of a PJM member to pay its bill from PJM as well as the load serving entity charges listed in the Supply Master Agreement Exhibit D as the responsibility of the supplier.

A = Administrative Cost – This includes the cost of the auction or RFP monitor, consultants providing guidance on the development of the procurement plan, legal fees incurred gaining approval of the plan, and any other costs associated with designing and implementing a procurement plan.

S = Estimated sales for the period the rate is in effect for the classes to which the rate is applicable.

T = The currently effective gross receipts tax rate.

ALL = average line losses for the procurement class.

LL_(i) = line losses for the specific rate class (where i = rate class) provided in the Company's Electric Generation Supplier Coordination Tariff rule 6.6.

PF = Phase-out factor to implement the phase out of demand charges and declining blocks as identified in the GSA Tariff pages 31-32.

WC = 0.04¢/kWh to represent the cash working capital for power purchases.

In general, the line loss adjustment is applicable to Procurement Class 2 and 3 only as those classes contain rate classes with three different line loss factors.

The Baseline $GSA_{CPP(n)}$ will then be developed into on and off-peak prices per the methodology described in Appendix A to PECO Statement No. 3 which is attached to the settlement of PECO's Petition for Approval of Initial Dynamic Pricing and Customer Acceptance Plan (Docket No. M-2009-2123944).

CRITICAL PEAK EVENTS: The Company may call for up to 15 Critical Peak Events annually, on non-Holiday weekdays. Each Critical Peak Event will last from 2 pm through 6 pm, Eastern Standard Time or Daylight Savings Time, whichever is in common use. Critical Peak Events may be called at times including, but not limited to, when day-ahead LMP prices are expected to be higher than normal. Off-Peak Hours are defined as the hours other than those specified as critical peak hours.

NOTIFICATION: The Company will make a reasonable attempt to notify Customers of an anticipated Critical Peak Event by 8 pm Eastern Standard Time or Daylight Savings Time, whichever is in common use of the day prior to an event. Customers will receive an automated phone call, email, or text message, or combination thereof, notifying them that a Critical Peak Event will occur on the following day. Customers may also contact PECO customer service via a toll free number for critical peak information or visit the PECO website at www.peco.com.

(C) Denotes Change

CRITICAL PEAK PRICE (CPP) RIDER (continued)

(C)

MONTHLY RATE TABLE:

FIXED DISTRIBUTION SERVICE CHARGE: See corresponding Rates R, RH, OP, GS, PD, or HT charge.

VARIABLE DISTRIBUTION SERVICE CHARGE: See corresponding Rates R, RH, OP, GS, PD, or HT charge.

ENERGY AND CAPACITY CHARGE: The following Energy and Capacity Charges, which are not applicable to a customer who obtains Competitive Energy Supply, will apply to the customer who receives Default PLR service under this rider.

Procurement Class 1:

Rate R, RH, OP

Critical Peak: aa.a¢ per kWh

Off-Peak: bb.b¢ per kWh

Procurement Class 2:

Rate GS

Critical Peak: cc.c¢ per kWh

Off-Peak: dd.d¢ per kWh

Rate PD

Critical Peak: ee.e¢ per kWh

Off-Peak: ff.f¢ per kWh

Rate HT

Critical Peak: gg.g¢ per kWh

Off-Peak: hh.h¢ per kWh

Procurement Class 3:

Rate GS

Critical Peak: ii.i¢ per kWh

Off-Peak: jj.j ¢ per kWh

Rate PD

Critical Peak: kk.k ¢ per kWh

Off-Peak: ll.l ¢ per kWh

Rate HT

Critical Peak: YY.Y¢ per kWh

Off-Peak: XX.X¢ per kWh

TRANSMISSION SERVICE CHARGE: See corresponding Rates R, RH, OP, GS, PD, or HT charge.

MINIMUM CHARGE: See corresponding Rates R, RH, OP, GS, PD, or HT charge.

STATE TAX ADJUSTMENT CLAUSE, NUCLEAR DECOMMISSIONING COST ADJUSTMENT, UNIVERSAL SERVICE FUND CHARGE, PROVISION FOR THE RECOVERY OF ENERGY EFFICIENCY AND CONSERVATION PROGRAM COSTS and PROVISION FOR THE RECOVERY OF CONSUMER EDUCATION PLAN COSTS APPLY TO THIS RIDER.

CONTRACT TERM: Not less than twelve months.

PAYMENT TERMS: Standard.

(C) Denotes Change

PECO Energy Company

RESIDENTIAL TIME-OF-USE SERVICE RIDER

(C)

AVAILABILITY:

This rider is available on or after June 1, 2012 to customers who have a smart meter installed and are served under Rate R Residential Service, Rate R-H Residential Heating Service and Rate OP Residential Off-Peak Service who choose to receive Default Provider of Last Resort (PLR) Service from the Company. This rider will remain in effect until May 31, 2015, at such time the Company may choose to continue, terminate, or change this rider. This rider can not be used in conjunction with the Critical Peak Pricing Rider or the Customer Assistance Program (CAP) Rider.

CURRENT CHARACTERISTICS: Standard single-phase secondary service.

RATE IMPACT: Rates R, RH, OP, including all their terms and guarantees, are applicable to service on this rider except for the Energy and Capacity Charges. The Energy and Capacity Charges will be calculated for on-peak and off-peak hours. The baseline Energy and Capacity Charges will be calculated quarterly basis using the following formula:

Baseline $GSA_{TOU} = (C+A)/S * 1/(1-T) \times PF + WC$ where:

C = The sum of the amounts paid to the full requirements suppliers providing the power for the quarter, the spot market purchases for the quarter, plus the cost of any other energy acquired through short or long term contracts during the period being reconciled. Cost shall include energy, capacity and ancillary services, distribution line losses, cost of complying with the Alternative Energy Portfolio Standards, and any other load servicing entity charges other than network transmission service and costs assigned under the Regional Transmission Expansion Plan. Ancillary services shall include any allocation by PJM to PECO default service associated with the failure of a PJM member to pay its bill from PJM as well as the load serving entity charges listed in the Supply Master Agreement Exhibit D as the responsibility of the supplier.

A = Administrative Cost – This includes the cost of the auction or RFP monitor, consultants providing guidance on the development of the procurement plan, legal fees incurred gaining approval of the plan, and any other costs associated with designing and implementing a procurement plan.

S = Estimated sales for the period the rate is in effect for the classes to which the rate is applicable.

T = the currently effective gross receipts tax rate.

PF = Phase-out factor to implement the phase out of demand charges and declining blocks

WC = 0.04¢/kWh to represent the cash working capital for power purchases.

The Baseline GSA_{TOU} will then be developed into on and off-peak prices per the methodology described in Appendix A to PECO Statement No. 3 to the settlement of PECO's Petition for Approval of Initial Dynamic Pricing and Customer Acceptance Plan (Docket No. M-2009-2123944)

DEFINITION OF ON AND OFF PEAK-HOURS: On-Peak Hours are defined as the hours between 2 pm and 6 pm, Eastern Standard Time or Daylight Savings Time, whichever is in common use, daily except Saturdays, Sundays and Holidays. Off-Peak Hours are defined as the hours other than those specified as on-peak hours.

MONTHLY RATE TABLE:

FIXED DISTRIBUTION SERVICE CHARGE: See corresponding Rate R, Rate RH or Rate OP.

VARIABLE DISTRIBUTION SERVICE CHARGE: See corresponding Rate R, Rate RH or Rate OP.

ENERGY AND CAPACITY CHARGE: The following Energy and Capacity Charges, which are not applicable to a customer who obtains Competitive Energy Supply, will apply to the customer who receives Default PLR service under this rider.

XX.X¢ per off-peak kWh

YY.Y¢ per on-peak kWh

TRANSMISSION SERVICE CHARGE: See corresponding Rate R, Rate RH, or Rate OP charge.

(C) Denotes Change

RESIDENTIAL TIME-OF-USE SERVICE RIDER (continued)

(C)

MINIMUM CHARGE: See corresponding Rate R, Rate RH or Rate OP charge.

STATE TAX ADJUSTMENT CLAUSE, NUCLEAR DECOMMISSIONING COST ADJUSTMENT, UNIVERSAL SERVICE FUND CHARGE, PROVISION FOR THE RECOVERY OF ENERGY EFFICIENCY AND CONSERVATION PROGRAM COSTS and PROVISION FOR THE RECOVERY OF CONSUMER EDUCATION PLAN COSTS APPLY TO THIS RIDER.

CONTRACT TERM: Not less than twelve months.

PAYMENT TERMS: Standard.

(C) Denotes Change

EXHIBIT

2

APPENDIX A

Developing the TOU & CPP Rates

I. TOU Rate for the Residential Class

There are four steps in developing a cost-based TOU rate that reflects future expectations of energy and capacity procurement costs.

First, “shape” the forward prices using historical LMPs. The “peak” and “off-peak” period definitions in the forward prices do not correspond to those periods as defined in the TOU rate. For example, the forward peak period is from 7 am to 11 pm on non-holiday weekdays and the TOU peak period is from 2 pm to 6 pm on non-holiday weekdays. To account for this difference, the forward prices are “shaped” using historical LMPs:

1. Calculate the average 5x16 forward price (\$58.28/MWh)
2. Using historical LMPs,¹ calculate the relationship of the average LMP during the TOU peak period to the average LMP during the 5x16 period (a ratio of 1.11-to-1)
3. Scale up the average 5x16 forward price using the factor developed in step 2 (resulting in an adjusted forward “peak” price of \$64.48/MWh)
4. Repeat this scaling process to also establish an adjusted off-peak forward price, using the average forward price for the non-5x16 hours and the associated LMPs (resulting in an adjusted “off-peak” forward price of (\$45.32/MWh)

Second, calculate the ratio of the shaped peak and off-peak forward prices. The result is a peak-to-off-peak price ratio in the adjusted forward prices of 1.42-to-1.

Third, use this ratio to create the peak and off-peak prices of the TOU rate. At this stage, the revenue neutrality calculation is based on an assumed existing rate of 10 cents/kWh less the 0.58 cent capacity portion of this rate, or 9.42 cents/kWh.² The TOU prices are calculated using two constraints: (1) the TOU rate is revenue neutral to a 9.42 cents/kWh flat generation charge and (2) the peak to off-peak ratio of the TOU is the same as that calculated in the adjusted forward prices (1.42). There is a unique solution to this problem, and the resulting generation rates are:

Peak: \$0.127 per kWh

Off-Peak: \$0.090 per kWh

¹ We are currently using LMPs for the period between April 2008 and March 2009. Using other years of LMPs would not significantly change the analysis.

² To calculate the capacity portion of the 10 cent assumed existing rate, we divide \$51.03 kW-year by the 8760 hours of the year, which equals 0.58 cents.

Fourth, add the capacity adder to the peak price and adjust accordingly. The peak price must also reflect a capacity cost of \$51.03 kW-year.³ This is allocated evenly to the 1,044 peak hours of the TOU, resulting in peak price increase of roughly 5 cents per kWh. The off-peak rate is adjusted downward to offset the peak price increase and maintain revenue neutrality. Now, the revenue neutrality calculation is based off of the assumed existing rate of 10 cents/kWh, which includes both energy and capacity. The result is the following generation rates:

Peak: \$0.176 per kWh
Off-Peak: \$0.089 per kWh

With non-generation costs included, the all-in rates are:

Peak: \$0.241 per kWh
Off-Peak: \$0.154 per kWh

II. CPP Rate for the Residential, Small C&I, and Medium C&I Classes

The CPP rate development is a relatively simple two-step process.

First, calculate the critical peak price. Given 15 critical peak days with a 4 hour critical peak period, there are 60 critical peak hours per year. As with the TOU rate, the capacity cost of \$51.03/kW-year is allocated across these 60 critical peak hours, creating a capacity adder of roughly 85.1 cents. Again, we assume a 10 cent existing generation charge, which includes a 0.58 cent capacity cost. To calculate the critical peak rate, we add the capacity adder to the existing rate less the capacity cost, equaling \$0.945/kWh. .

Second, solve the off-peak price for revenue neutrality. In order to maintain revenue neutrality, the off-peak price is slightly different for each class due to differences in class load shapes. The assumed existing rate used in the revenue neutrality calculation is 10 cents/kWh. In this case, the generation-only off-peak rates are as follows:

Residential Class – Off-Peak: \$0.091 per kWh
Small C&I Class – Off-Peak: \$0.092 per kWh
Medium C&I Class – Off-Peak: \$0.092 per kWh

With non-generation costs included, the all-in rates are:

Residential Class – Critical Peak: \$1.009 per kWh
Residential Class – Off-Peak: \$0.156 per kWh

³ The average PJM capacity auction outcome for year 2012.

Small C&I Class – Critical Peak: \$0.971 per kWh
Small C&I Class – Off-Peak: \$0.118 per kWh

Medium C&I Class – Critical Peak: \$0.967 per kWh
Medium C&I Class – Off-Peak: \$0.114 per kWh

A

Statement

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

 ORIGINAL

PETITION OF PECO ENERGY :
COMPANY FOR APPROVAL OF ITS :
SMART METER TECHNOLOGY :
PROCUREMENT AND INSTALLATION : DOCKET NO. M-2009-2123944
PLAN – PETITION FOR APPROVAL OF :
PECO ENERGY COMPANY’S INITIAL :
DYNAMIC PRICING AND CUSTOMER :
ACCEPTANCE PLAN :

STATEMENT OF PECO ENERGY COMPANY
IN SUPPORT OF THE
JOINT PETITION FOR PARTIAL SETTLEMENT

January 28, 2011

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PETITION OF PECO ENERGY :
COMPANY FOR APPROVAL OF ITS :
SMART METER TECHNOLOGY :
PROCUREMENT AND INSTALLATION : **DOCKET NO. M-2009-2123944**
PLAN – PETITION FOR APPROVAL OF :
PECO ENERGY COMPANY’S INITIAL :
DYNAMIC PRICING AND CUSTOMER :
ACCEPTANCE PLAN :

**STATEMENT OF PECO ENERGY COMPANY
IN SUPPORT OF THE
JOINT PETITION FOR PARTIAL SETTLEMENT**

I. INTRODUCTION

On January 28, 2011, PECO Energy Company (“PECO” or the “Company”); the Office of Consumer Advocate (“OCA”); and the Office of Small Business Advocate (“OSBA”) (collectively, the “Joint Petitioners”), by their respective counsel, filed with the Pennsylvania Public Utility Commission (the “Commission”) a Joint Petition For Partial Settlement (“Joint Petition” or “Settlement”) of all but one issue in the above-captioned proceeding and requested that Administrative Law Judge Marlane R. Chestnut approve the Settlement without modification.¹ The item reserved for litigation by the Joint Petitioners involves whether the development and implementation costs of PECO’s Initial Dynamic Pricing and Customer Acceptance Plan (“Dynamic Pricing Plan” or “Plan”) that are assigned or allocated to Default Service Procurement Classes 1, 2, and 3 should be recovered from both shopping and non-

¹ The Office of Trial Staff (“OTS”), Direct Energy Services, LLC and Direct Energy Business, LLC (collectively “Direct Energy”) and the Philadelphia Area Industrial Energy Users Group (“PAIEUG”), which are also parties to this case, have authorized the Joint Petitioners to represent that they do not oppose the Settlement.

shopping customers or from non-shopping customers only. The Joint Petition contains a statement of the factual background and procedural history of this case. This Statement in Support (the “Statement”) is filed on behalf of PECO pursuant to Paragraph 10 of the Joint Petition.

The Settlement was achieved only after a careful investigation by the parties of the proposed Dynamic Pricing Plan, which continues PECO’s implementation of its Smart Meter Technology Procurement and Installation Plan (“Smart Meter Plan”)² and addresses certain dynamic rate requirements of Act 129 of 2008, 66 Pa. C.S. § 2807(f) (“Act 129”). The parties conducted discovery and submitted direct, rebuttal, and surrebuttal testimony. In addition, over a period of several weeks, the parties engaged in discussions and negotiations about the terms of the Settlement.

PECO is in full agreement with each of the reasons for approval of the Settlement set forth in the Joint Petition. In this Statement, the Company offers additional reasons why the Settlement is in the public interest and should be approved.

II. THE SETTLEMENT IS IN THE PUBLIC INTEREST AND ADDRESSES ACT 129’S DYNAMIC RATE REQUIREMENTS

PECO’s Plan, as modified by the Settlement, will implement a robust and balanced “test and learn” approach to determine effective combinations of dynamic rate design, technology, marketing and educational strategies for its customers. The lessons learned from this initial testing will allow for the successful broad-scale deployment of dynamic rates throughout the Company’s service territory and will add to the general body of knowledge about customer acceptance of dynamic pricing rates.

² See *Petition of PECO Energy Company for Approval of its Smart Meter Technology Procurement and Installation Plan*, Docket No. M-2009-2123944 (Order entered May 6, 2010).

A. The Plan Satisfies Act 129's Requirements Regarding Time-of-Use Rates

Act 129 requires that specific kinds of rates be offered to customers who have been provided with smart meter technology. In particular, electric distribution companies must submit “one or more proposed time-of-use rates and real-time price plans” by January 1, 2010, or at the end of the applicable generation rate cap period, whichever is later.³ 66 Pa. C.S. §§ 2807(f)(5). A time-of-use rate is defined as a rate that reflects the costs of serving customers during different time periods, including off-peak and on-peak periods, but not as frequently as each hour. *See* 66 Pa. C.S. § 2806.1(m). A real-time price is defined as a rate that directly reflects the different costs of energy during each hour. *Id.*

As part of the Plan, PECO is proposing to offer two different rate options that satisfy Act 129's “time-of-use” definition: Critical Peak Pricing (“CPP”) and Time-of-Use (“TOU”) Pricing.⁴ The CPP rate features a discounted flat rate for all kWh consumed other than on those occasions when a critical day is called (critical days will be called 15 days per summer). On critical days, during a 4-hour peak period, customers will pay a premium for all kWh used. With the TOU rate, each weekday is divided into peak and off-peak periods, and customers pay a discounted rate for off-peak usage and a higher rate for peak period usage relative to PECO's standard, non-time-differentiated tariff. *See* PECO St. No. 1, p. 8. Residential customers that are not enrolled in the Company's Customer Assistance Program (“CAP”) will be eligible for both the CPP and TOU rates. Small and medium commercial and industrial customers will be eligible for the CPP rate. The Company supports these rates because, in addition to satisfying Act 129 obligations, they are understandable and send price signals that will incentivize cost-saving

³ PECO's generation rate cap period ended on December 31, 2010.

⁴ Pursuant to PECO's approved Default Service Plan, the Company is already providing an hourly pricing offer to large commercial and industrial customers that satisfies Act 129's “real-time price” definition. *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).

consumption changes among PECO's customers. *See* PECO St. No. 3, pp. 3-7; PECO St. No. 1, pp. 8-9.

B. The Settlement Establishes A Reasonable Process To Monitor Potential Changes To PECO's Peak Periods

PECO used historical data regarding system load and energy prices in order to determine the timing of the peak period for its proposed CPP and TOU rates. *See* PECO St. No. 3, p. 9. On December 2, 2010, more than a month after PECO filed its Petition proposing its Dynamic Pricing Plan, PJM petitioned the Federal Energy Regulatory Commission ("FERC") for approval of two new demand response products. *See* OCA St. No. 1, pp. 15-16. The OCA's expert witness submitted testimony expressing concern that, if approved and implemented, PJM's proposed demand response products could alter customer usage patterns sufficiently to change the timing of PECO's peak period. Consequently, the OCA recommended that the Company evaluate the possible implications of the PJM proposed products for the peak periods for the CPP and TOU rates and, after consultation with stakeholders, propose changes in such peak periods as may be appropriate. *Id.* at 16-17. The Company explained that considering changes to peak periods would be premature at this stage because, among other things, the new PJM products are not yet approved and, if approved, would not be available for use by customers until June of 2014. *See* PECO St. No. 1-R, pp. 2-3.

Under the Settlement, PECO will monitor PJM's request to FERC for approval of PJM's two new demand response products. If those products are approved and, as a consequence, PECO's peak periods are impacted in 2014 or beyond, PECO will propose appropriate adjustments to the Plan's CPP and TOU rates after consultation with stakeholders. *See* Settlement, ¶ 9.A. This Settlement commitment addresses OCA's concerns while continuing to

determine peak periods through analysis of actual data, which are currently available and are the appropriate basis for rate design.

C. The Plan Provides A Balanced Approach For Testing The CPP And TOU Rates

PECO's Plan is designed to individually test a variety of elements, including rate design, promotional materials and technology. *See* PECO St. No. 2, pp. 17-19 (explaining the different research tracks of PECO's "test and learn" approach). Each test cell was developed to investigate a single element of interest, and that element of interest is not always the rate design itself. *See* PECO St. No. 2-R, p. 3. To determine customer preferences regarding rate design (e.g., CPP vs. TOU), the Plan offers one randomly selected group of customers the CPP rate with a sign up incentive and another randomly selected group the TOU rate with the same incentive while holding constant all other features of the marketing offers to both groups. *Id.* In addition, as originally filed, the Plan tested most non-rate design features (e.g., marketing and promotion materials) in test cells populated by customers enrolled in the CPP rate. *Id.* at 4. In that way, the testing on non-rate design features could isolate such non-rate design features without introducing rate design as a variable.

While the OCA acknowledged that customers' preferences for rate design (CPP vs. TOU) were being tested fairly, it nonetheless raised concerns about the testing of non-rate design features, which the OCA perceived as unduly emphasizing the CPP rate over the TOU rate. *See* OCA St. No. 1, pp. 9-13; OCA St. No. 1-S, p. 3. Based on that perception, the OCA recommended that PECO work with stakeholders to revise its proposed offers to place equal emphasis on testing non-rate design features with TOU. *Id.* at 13. The Company explained that it did not believe it was necessary to test each promotional option with each rate and that certain

features of the CPP rate made it more attractive than the TOU rate for testing non-rate design features. *See* PECO St. No. 2-R, p. 4.

Under the Settlement, PECO will add five additional test cells populated by customers enrolled in the TOU rate to test incentives, promotional messages and enhanced education. *See* Settlement, ¶ 9.C. The additional cells will allow the Company to compare certain offer features across different rate designs and will contribute additional findings to the “test and learn” process.

D. The Plan Provides Appropriate Customer Protections

As originally filed, PECO’s Plan included several customer protections. In particular, as part of the Plan’s “test and learn” approach, some customers would be offered a bill protection feature that protects them from paying more than they would have paid under the Company’s otherwise applicable rates for default service for the same number of kWh during their first year on the dynamic rate. *See* PECO St. No. 1-R, p. 4. PECO also committed to work with interested stakeholders to develop appropriate messaging to be used with marketing, educational, and enrollment materials to help customers understand the potential implications of accepting a dynamic rate offer. *Id.*

The OCA recommended that, in addition to the protections proposed by the Company, the Company should expand the eligibility criteria for payment arrangements for those residential customers enrolled in either the CPP or TOU rate program. *See* OCA St. No. 2, pp. 7-9. In particular, the OCA proposed that PECO allow a customer enrolled on the CPP or TOU rate: (1) to enter into a payment arrangement if the customer was unable to pay high peak or critical peak period bills in a timely manner, regardless of whether the customer had an existing payment arrangement or had defaulted on a previous payment arrangement; and (2) to enter into a payment arrangement for arrearages incurred after returning to the regular rate schedule, even

if the customer had entered into an arrangement for arrearages incurred on the CPP or TOU rate. *Id.* at 2, 7-9. In order to address the OCA's concern regarding the combination of high peak or critical peak period bills and ineligibility for payment arrangements, the Company proposed in rebuttal testimony that residential customers who were not eligible for a payment arrangement under the existing Commission rules would not be eligible to enroll in the Plan's CPP and TOU rates. *See* PECO St. No. 1-R, p. 4.

Under the Settlement, a compromise proposal was developed to address the potential for high peak or critical peak period bills for residential customers. Residential customers who are currently in default on a payment arrangement or who currently are making payments subject to a payment arrangement will not be eligible for the Plan's CPP and TOU rates. *See* Settlement, ¶ 9.D. However, if PECO is contacted by a residential customer that has enrolled in the Plan's CPP or TOU rate and is experiencing difficulty making timely bill payments, the Company will take the following steps:

- a. Move the customer to a separate research test cell focused on payment troubled customers.
- b. Offer the customer first year bill protection for the entire first 12 months on the CPP or TOU rate if the customer is not already in a test cell that offers such protection.
- c. Offer the customer a payment agreement specific to any arrearages incurred while enrolled on the CPP or TOU rate that is suitable under the Company's guidelines for payment arrangements for the customer's circumstance.
- d. Prior to the expiration of the bill protection feature, communicate and discuss with the customer whether to remain on the CPP or TOU rate given the payment problems encountered by the customer.

Id. Consequently, the Settlement provides additional protection for residential customers and also creates a new opportunity for the Company to test the bill protection feature and gather data specific to payment troubled customers.

E. The Plan Appropriately Incorporates Surveys To Collect Data

In its initial filing, PECO explained that the use of surveys was one of several key components of the Plan's rigorous measurement and evaluation strategy. *See* PECO St. No. 2, pp. 22-23. The OCA recommended that PECO include targeted surveys to collect information from several groups of customers, including: (1) customers with vulnerabilities such as advanced age or low income; (2) customers who were dissuaded from enrolling on a CPP or TOU rate; and (3) customers who dropped out of the CPP or TOU rate after having enrolled. OCA St. No. 2, pp. 11-12.

The Settlement addresses the OCA's concerns by incorporating PECO's commitment to conduct (or, in one instance discussed below, assess the value of conducting) surveys of the three customer groups identified above. First, PECO will ask a representative sample of customers who decided against enrolling in the TOU or CPP rates the reason(s) for their decision not to enroll. *See* Settlement, ¶ 9.E. PECO will maintain the responses from the survey and will prepare a report summarizing the reasons cited by such customers. *Id.* Second, PECO will monitor the drop-out rates for CPP and TOU customers as the Plan is implemented and work with the stakeholder group to determine whether surveying those customers could provide valuable information regarding the programs. *Id.* Third, and finally, PECO will perform a survey of, or conduct a focus group with, vulnerable customers in the pilot program to better understand the experiences of vulnerable customers in responding to the pilot program rates. Information to be collected shall include the efforts or strategies that customers use to respond to

the pilot program rates. PECO will work with its stakeholder group to determine if there is other information that should be collected as part of this process. *Id.*

F. The CPP and TOU Riders Provide Appropriate Detail Regarding How The Rates Will Be Calculated

The OCA recommended that the Company's proposed CPP and TOU Riders be revised to include a detailed description of methodology the Company will use to calculate each quarterly rate change. *See* OCA St. No. 1, pp. 17-19. Under the Settlement, the Company has addressed the OCA's concern by revising its CPP and TOU Riders to provide additional detail. *See* Settlement, ¶ 9.F; Joint Petition Exhibit 1 (CPP and TOU Riders).

G. The Settlement Appropriately Addresses How Generation Supply For Dynamic Pricing Customers Will Be Obtained And The Rate Design To Be Employed

The Joint Petitioners agree that this proceeding is the appropriate venue to determine CPP and TOU rate design and sourcing issues for the period from Plan inception through the end of PECO's currently approved default service plan (May 31, 2013). Thus, for this "stub period", the Company will utilize the methodology described in Joint Petition Exhibit 2 to calculate the CPP and TOU rates. *See* Settlement, ¶ 9.G (1). The Company will not perform any reconciliation of differences between projected revenues and revenues actually billed resulting from changes in load or shifts in demand for pilot program participants. *Id.* The Company will forego recovery of any revenue collection shortfall associated with the Plan participants. *Id.* PECO will reflect changes in usage patterns with respect to its dynamic pricing programs in its future rate proceedings. *Id.* The Company believes these Settlement commitments are reasonable because, among other things, the potential for under-recovery of revenue will be insignificant given the short duration of the stub period and the low number of customers expected to enroll during the stub period. *See* PECO St. No. 4-R, p. 4.

For the period that will begin on June 1, 2013, the Joint Petitioners agree that the Company will address, as part of its next default service plan filing, the issues of sourcing and pricing generation supply for dynamic pricing service, the need for a separate Generation Supply Adjustment and a reconciliation mechanism for price differences between forward and actual market prices. *See* Settlement, ¶ 9.G (2). This approach is consistent with the Commission's guidance in its December 2, 2010 Order approving PPL's updated TOU program (Docket No. R-2010-2201138) and allows the issue to be reviewed with appropriate stakeholders at an appropriate docket. *See* PECO St. No. 4-R, pp. 3-5.

H. The Settlement Provides For Reasonable Allocation Of Plan Development Costs

Under the Settlement, for the purpose of this proceeding only, the Joint Petitioners accept PECO's initial method for the assignment and allocation of costs to Default Service Procurement Classes 1, 2 and 3. *See* Settlement, ¶ 9.I; *see also* PECO St. No. 4, pp. 10-11. All costs incurred for the TOU rate program will be assigned to Default Service Class 1 (residential customers) because the TOU rate is only being offered to residential customers. *Id.* Costs of the CPP rate program that, with reasonable time and effort, can be directly assigned will be directly assigned to the Default Service Class for which such costs are incurred. *Id.* All costs that are not directly assigned will be allocated to Default Service Classes 1, 2, and 3 in proportion to each class's default service load. *Id.* No costs will be assigned to Default Service Procurement Class 4 (large commercial and industrial customers) because the Plan does not offer any dynamic rate options to those customers. *Id.*

As previously explained, the Settlement reserves for litigation the issue of whether the costs that, in the aggregate, are assigned and allocated to Default Service Procurement Classes 1, 2, and 3 should be recovered solely from customers receiving default service or from both

“shopping” and default service customers. If the Commission were to determine that such costs are to be recovered from both “shopping” and default service customers, then an appropriate rate mechanism must be approved to recover from shopping customers, on a full and current basis, the costs that are apportioned to them.

I. The Settlement Provides For Continued Stakeholder Involvement And Additional Consideration Of Other Dynamic Rates

PECO utilized a collaborative process with interested stakeholders to design the Dynamic Pricing Plan presented in its initial filing. *See* PECO St. No. 1, p. 7. Accordingly, the Company’s Plan, as filed, reflected a reasonable balance of the interests of a diverse group of stakeholders. Under the Settlement, PECO will continue the stakeholder process, including convening periodic stakeholder meetings as Plan implementation moves forward. *See* Settlement, ¶ 9.B. PECO will also continue to consider other forms of dynamic rate options (including peak time rebates) that would be open to voluntary participation by all customers, including low income and CAP customers. *See* Settlement, ¶ 9.H. PECO will report to the parties and its stakeholder group regarding its evaluation of other dynamic rate options and explain its decision and reasoning for incorporating or declining to incorporate additional dynamic rate options in its scheduled interim report to the Commission, which will be filed on or before December 31, 2013. *Id.* Copies of the report will be provided to the parties and its stakeholder group. *Id.*

The Company believes the continued involvement of stakeholders and consideration of additional dynamic rate designs will supply the Company with valuable perspectives and information that will enhance the effectiveness of the Plan’s test and learn strategy.

III. CONCLUSION

The Settlement provides a reasonable means of resolving all but one issue raised in this proceeding. It also reduces the administrative burdens on the Commission and the litigation costs of all parties. Accordingly, for the reasons set forth above and in the Joint Petition, the Settlement is in the public interest and should be approved without modification.

Respectfully submitted,



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January 28, 2011

Counsel for PECO Energy Company

Statement

B

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

 ORIGINAL

Petition of PECO Energy Company for	:	
Approval of its Smart Meter Technology	:	
Procurement and Installation Plan - Petition	:	Docket No. M-2009-2123944
for Approval of PECO Energy Company's	:	
Initial Dynamic Pricing and Customer	:	
Acceptance Plan	:	

STATEMENT OF THE OFFICE OF CONSUMER
ADVOCATE IN SUPPORT OF THE JOINT
PETITION FOR PARTIAL SETTLEMENT

The Office of Consumer Advocate (OCA), one of the signatory parties to the Joint Petition for Partial Settlement (Settlement) respectfully requests that the terms and conditions of the Settlement be approved by the Administrative Law Judges and the Pennsylvania Public Utility Commission (Commission). This request is based upon the OCA's conclusion that the proposed Settlement is in the public interest and is in the interest of the customers of PECO Energy Company.

I. Introduction

On October 28, 2010, PECO Energy Company (PECO or Company) filed a Petition with the Commission seeking approval of its Initial Dynamic Pricing and Customer Acceptance Plan (Plan). The filing has been made pursuant to the requirements of Act 129 of 2008, specifically under revised Section 2807(f). Section 2807(f)(5) requires each Electric Distribution Company (EDC) with at least 100,000 customers to submit "one or more proposed

time-of-use and real-time pricing plans” by January 1, 2010. A time-of-use rate is defined as a rate that reflects the cost of serving customers during different periods, including off-peak and on-peak periods, but not as frequently as each hour. 66 Pa.C.S. § 2806.1(m). A real-time price is defined as a rate that directly reflects the different cost of energy during each hour. Id. The filing was published in the Pennsylvania Bulletin on November 13, 2010 with Interventions and Answers due by November 29, 2010. 40 Pa.B. 6619.

On November 29, 2010, the Office of Small Business Advocate (OSBA) filed its Protest, Notice of Appearance and Notice of Intervention, and the Office of Consumer Advocate (OCA) filed its Answer and Public Statement in this matter. On November 29, 2010, the Retail Energy Supply Association (RESA)¹; Direct Energy Services, LLC and Direct Energy Business, LLC (Direct); and Philadelphia Area Industrial Users Group (PAIUG) filed Petitions to Intervene. On December 1, 2010, the Office of Trial Staff (OTS) filed a Notice of Appearance in this matter.

The matter was assigned to the Office of Administrative Law Judge and further assigned to Administrative Law Judge Marlane R. Chestnut. A Prehearing Order was entered on December 9, 2010 setting the procedural schedule that was agreed to by the parties and accepted by ALJ Chestnut.

On December 23, 2010, in accordance with the procedural schedule, the OCA served OCA Statement No. 1, the Direct Testimony of J. Richard Hornby, and OCA Statement No. 2, the Direct Testimony of Nancy Brockway. On January 11, 2011, Rebuttal Testimony was submitted by the OSBA and PECO. On January 19, 2011, the OCA served OCA Statement No. 1-S, the Surrebuttal Testimony of J. Richard Hornby, and OCA Statement No. 2-S, the Surrebuttal Testimony of Nancy Brockway. Throughout the proceeding the parties engaged in

¹ RESA filed a Petition for Leave to Withdraw its Intervention on December 21, 2010.

settlement negotiations which resulted in a Partial Settlement (Settlement). The Settlement addresses all issues except whether the costs assigned to each class should be collected from both *shopping and non-shopping customers*. In accordance with the procedural schedule adopted in this proceeding, on January 28, 2011, the OCA will file its Main Brief presenting its recommendation to the ALJ and the Commission as to the issue that was not resolved by the Settlement.

As discussed further below, the OCA submits that the proposed Settlement is in the public interest and in the interest of the customers of PECO and should be approved. The OCA will discuss several of the key provisions of the Settlement that are of particular importance to the OCA, which are set forth below.

II. Payment Arrangements (Settlement ¶ D)

Payment arrangements were an issue of particular importance to the OCA. As explained by Ms. Brockway, the objective of dynamic pricing is not to achieve demand reductions regardless of the impacts on consumers' quality of life and access to electricity. As Ms. Brockway explained:

According to the preamble to Act 129, the "health, safety and prosperity" of Pennsylvania are inherently dependent upon "the availability of adequate, reliable, affordable, efficient and environmentally sustainable electric service...." Among the purposes of the policies established under the Act is to ensure "affordable and available electric service to all residents...." In other words, the purposes do not include requiring customers to pay more for a lower quality of electric service. Nor do they include causing customers to deny themselves other essentials of life in order to avoid unaffordable electric bills. The policies undertaken to fulfill the goals of Act 129 must not achieve efficiency alone, but also must ensure adequate, reliable, affordable, efficient and environmentally sustainable electric service. Averting hardship and undue inconvenience caused by customers cutting back too far in order to maintain affordable service is thus a core requirement for any dynamic pricing instituted in fulfillment of Act 129.

OCA St. 2 at 5. Ms. Brockway testified that PEĈO’s Plan offered inadequate protection to its customers and proposed, among others, that customers be afforded a payment plan should they fall into arrears while participating in the dynamic pricing pilot. *Id.* at 6.

The Settlement provides clear and substantial protections to those participating in the dynamic pricing pilot. Customers who are currently in default on a payment arrangement or are currently making payments subject to a payment arrangement are not eligible to participate in the Plan and are thereby protected from the high bills that could result from high peak or critical peak pricing if the customers is unable to adjust their usage. OCA St. 2 at 7.

Most importantly, if the Company is contacted by a residential customer on the CPP or TOU rate who is experiencing difficulty making timely bill payments, the Settlement provides for a series of “steps” to help the customer: the customer is moved to a separate research test cell focused on payment troubled customers; the customer is offered first year bill protection for the entire first 12 months on the CPP or TOU rate; the customer is offered a payment arrangement specific to any arrearages incurred while on the dynamic pricing rate; and, finally, prior to the expiration of bill protection, the customer is counseled regarding whether to stay on the CPP or TOU rate. Settlement, ¶ D.

These substantial protections will enable customers to try the Plan rates without fear of unnecessary disconnection and will protect customers from the situation in which their experience under the TOU or CPP rates diminishes their access to utility service on a going forward basis.

III. Plan Details and Testing (Settlement ¶¶ C, E, F)

In its review of the Company’s Plan, the OCA had concerns regarding the Company’s emphasis on the CPP rate, the use of surveys and the lack of specificity in the tariff

regarding how the CPP and TOU riders are calculated. The Settlement agreement adequately addresses these issues.

TOU Test Cells

In his testimony, OCA witness Hornby discussed his concern that the Company's Plan did not place equal emphasis on testing CPP and testing TOU. Instead, the Plan placed most of its emphasis on testing CPP. OCA St. 1 at 9-10. As a result, the two rates were not being tested on a level playing field. Specifically, the Company was proposing to test eleven different combinations of CPP offers and promotional methods on residential rate class R customers but it was proposing to test only two combinations of TOU offers and promotional methods in that class. OCA St. 1, Exhibit__(JRH-2). Mr. Hornby discussed his concern regarding the over-emphasis of the CPP rate:

TOU has the potential to be much more cost-effective than CPP from a Total Resource Cost (TRC) perspective because it has the potential to produce a much larger aggregate reduction in peak demand. TOU has the potential to produce a much larger aggregate reduction in peak demand because many more customers are likely to enroll in TOU than in CPP. Experience with system-wide deployment of TOU and CPP elsewhere indicates that enrollment of residential customers in TOU has been as high as 40 percent whereas enrollment of residential customers in CPP has been less than 1 percent (Response to OCA-I-6 in Exhibit__(JRH-4)). The potential for much higher enrollment in TOU than in CPP offsets the Company's estimates of lower reductions per participant group resulting from TOU (4%) than from CPP (16%), as presented on page 16 of the direct testimony of Company witness Faruqui. For example, if 40 percent of residential customers participate in TOU, and reduce their peak demand by an average of 4 percent, their aggregate reduction in demand will be 1.60 percent. In contrast, if 1 percent of residential customers participate in CPP, and reduce their peak demand by an average of 16 percent, their aggregate reduction in demand will be 0.16 percent – ten times less.

OCA St. 1 at 10 (footnote omitted).

The Settlement addresses this concern by adding five TOU test cells to the Plan. Settlement, ¶ C. These test cells will provide additional data that will enable the Company to

better understand customer preference. The addition of TOU test cells will also allow the Company to better identify pricing offers that it can deploy system-wide at a relatively low cost in order to ensure cost-effectiveness over time.

Use of Surveys

The OCA had a number of concerns regarding the Company's use of surveys as part of its Plan, specifically in regard to low-income or vulnerable populations. OCA witness Brockway addressed the importance of collecting information about vulnerable populations in her testimony. She stated:

Eventually, the Company will be offering dynamic rates to all customers. It will need to understand how vulnerable customers will fare under the rates. We know that some customers will sign up for such rates in an effort to lower their bills, even if the incentives of the rates could expose them to risks. For example, we know from the evaluations of the experience of Pacific Gas & Electric with its SmartRatetm voluntary critical peak pricing tariff that low-income rate customers signed up for CPP in disproportionately high numbers. The underlying purposes of dynamic and time-varying prices will be put at risk if customers ultimately take up the rates, and experience inconvenience or worse. The long-run goals of smart metering and time-varying rates will be advanced if the Company can anticipate such post-acceptance issues and prepare to address them.

OCA St. 2 at 10-11 (footnote omitted).

The Settlement addresses these concerns by incorporating specific provisions for the collection of the information that Ms. Brockway recommends. Under the Settlement, PECO will perform a survey or focus group of vulnerable customers in the pilot program to gain a further understanding of the experiences of vulnerable customers, including those with low to moderate incomes, customers of advanced age and customers with a disability, in responding to the pilot program rates. Settlement, ¶ E. PECO will also ask a representative sample of customers who decide against enrolling in the dynamic rates their reason for deciding not to

enroll. Id. Additionally, PECO will monitor drop-out rates and work with the collaborative to determine if these customers should be surveyed. Id.

Through the Settlement, the “test and learn” strategy will allow for the development of detailed information regarding the experience of certain types of vulnerable customers with the dynamic pricing option. These surveys should allow the Company to gather data on the relationships between rates and the experiences of vulnerable customers. Such information can be used to determine if amendments to the plans and the pricing options should be made on a going forward basis.

Calculation of Tariff Riders

In his testimony, Mr. Hornby recommended that the Company revise its proposed riders for CPP and TOU to include a detailed description of the methodology for calculating the rates for those riders. OCA St. 1 at 19. As part of the Settlement, the Company has agreed to include, in each CPP and TOU rider, a formula that sets forth how the rate is to be calculated. Settlement, ¶ F. Inclusion of the specific formula will ensure transparency and will allow customers to better understand the rates that they are being charged.

IV. Ongoing Obligations (Settlement ¶¶ A, B, H)

PJM-Proposed Demand Response Products

On December 2, 2010, PJM submitted a petition to the Federal Energy Regulatory Commission (FERC) requesting approval to create two new additional demand response products. OCA St. 1 at 16. The additional products are an Annual Demand Resource and an Extended Summer Demand Resource. Id. PJM proposes continuing the existing demand response product and renaming it a Limited Demand Resource. Id. The Company’s Plan did not take into account PJM’s proposed changes. Mr. Hornby explained that, as a result, the peak

period proposed for the CPP may not cover all or most hours in which the system peak will occur in the future. OCA St. 1 at 16. The Settlement provides that PECO will monitor PJM's request to FERC and will, if necessary, make appropriate adjustments the Plan's CPP and TOU rates in consultation with stakeholders. Settlement, ¶ A. This monitoring and analysis is consistent with Mr. Hornby's recommendation.

Stakeholder Involvement

In its Plan, the Company proposed a general collaborative stakeholder process but did not detail the specifics of such collaboration. Plan at 7. While the OCA supported a collaborative process, its witness Nancy Brockway discussed her concern that the Plan limited the function of the stakeholder process to one of information instead of collaboration. OCA St. 2 at 13. The Settlement provides more specificity with respect both the scope and duration of the collaborative. Settlement, ¶ B. This increased specificity will allow for a robust process, encourage a two-way dialogue and allow for a better-informed process for both stakeholders and the Company. These goals were achieved in PECO's EE&C and Smart Meter collaboratives, and the OCA believes that inclusion of Dynamic Pricing in these collaboratives will build on this success.

Program Design

In his testimony, Mr. Hornby recommended that that the Company revise its proposed offers and promotional materials in order to test other dynamic pricing offers, such as a Peak Time Rebate (PTR), as well as customized information feedback provided via In-Home Displays (IHDs). OCA St. 1 at 13-15. Mr. Hornby explained that PTR has the potential to be more successful and cost-effective than CPP because if the customer elects to reduce demand

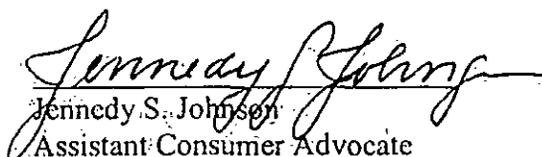
during a critical peak, he or she will receive a rebate. Id. at 13. If the customer does nothing, he or she is no worse off. Id.

The Settlement addresses the OCA's recommendation by detailing plans for the consideration of other dynamic rate options, including the PTR. Specifically, PECO will further consider the design of other forms of dynamic pricing rate options that would be open to *voluntary participation by all customers, including low income and CAP customers.* Settlement, ¶ H. PECO will report to the parties and its stakeholder group regarding its evaluation of other dynamic rate options. The Company will explain its decision and reasoning for incorporating or declining to incorporate one or more of these additional dynamic rate options in its scheduled interim report to the Commission, which will be filed on or before December 31, 2013. Copies of the report will be provided to the parties and its stakeholder group. Settlement, ¶ H.

V. Conclusion

For the foregoing reasons, the OCA respectfully requests that the Administrative Law Judge and the Public Utility Commission approve the terms and conditions of the Joint Petition for Partial Settlement without modification as being in the public interest.

Respectfully Submitted,



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Dated: January 28, 2011

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Statement
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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of PECO Energy Company for	:	
Approval of its Smart Meter Technology	:	
Procurement and Installation Plan	:	
	:	Docket No. M-2009-2123944
Petition of PECO Energy Company for	:	
Approval of its Initial Dynamic Pricing	:	
and Customer Acceptance Plan	:	

**STATEMENT OF THE OFFICE OF SMALL BUSINESS ADVOCATE
IN SUPPORT OF THE JOINT PETITION FOR PARTIAL SETTLEMENT**

Background

The Small Business Advocate is authorized and directed to represent the interests of the small business consumers in proceedings before the Pennsylvania Public Utility Commission ("Commission") under the provisions of the Small Business Advocate Act, Act 181 of 1988, 73 P.S. §§ 399.41 - 399.50.

SMIP Proceeding

All electric distribution companies ("EDCs") with more than 100,000 customers were required to file smart meter technology procurement and installation plans ("SMIP") with the Commission pursuant to Act 129 of 2008. PECO Energy Company ("PECO" or "Company") filed its SMIP on August 14, 2009.

The OSBA filed a Notice of Intervention and Public Statement in the above-captioned proceeding on September 25, 2009.

Thereafter, the OSBA filed the rebuttal testimony of its witness, Robert D. Knecht. The OSBA also actively participated in the negotiations that led to the Joint Petition for Partial Settlement (“Settlement”) and is a signatory to the Settlement. The OSBA submitted a statement in support of the Partial Settlement that was filed at the above-referenced docket on November 25, 2009. The OSBA also submitted a Main Brief on December 2, 2009, and a Reply Brief on December 9, 2009, regarding the issues reserved for litigation.

By Order entered May 6, 2010, the Commission approved the Partial Settlement and adjudicated the issues reserved for litigation.

Dynamic Pricing Proceeding

On October 28, 2010, PECO filed the Petition of PECO Energy Company for Approval of its Initial Dynamic Pricing and Customer Acceptance Plan (“DP Petition”). The Commission has docketed PECO’s DP Petition at the same docket number at which PECO’s August 14, 2009, Petition was docketed. On November 29, 2010, the OSBA filed a Protest to the DP Petition

The DP Petition, was assigned to Administrative Law Judge (“ALJ”) Marlane R. Chestnut. Due to the expedited schedule contained in the November 4, 2010, Secretarial Letter, no prehearing conference was held.

The OSBA issued interrogatories to determine the extent of its participation related to the subject matter of the DP Petition. Ultimately, because the OSBA did not disagree with PECO’s filing, the OSBA did not file direct testimony. However, in response to cost allocation and rate design proposals presented by the Office of Consumer Advocate witness Mr. J. Richard Hornby in direct testimony, the OSBA filed the rebuttal testimony of its witness, Robert D. Knecht, on January 11, 2011.

In the DP Petition, PECO proposed to recover program costs from only those customers that are eligible to participate in the proposed DP Plan, namely default service customers in default service rate class groups 1 (residential), 2 (small commercial), and 3 (medium commercial and industrial). No costs are assigned to default service rate class group 4 (large industrial) because no dynamic pricing options are available to that rate class group. The OSBA did not contest either the cost allocation or cost recovery mechanism as originally filed. While the OSBA may not entirely agree with the cost allocation principle implicit in the Company's allocation, the OSBA accepted the Company's arguments that (a) the Commission has generally required EDCs to recover costs for time-of-use rate programs in their default service rate mechanisms, and (b) that common administrative costs for default service programs are generally allocated in proportion to energy consumption. (*See OSBA Statement No. 1, the Rebuttal Testimony of Robert D. Knecht at 2*).

Settlement

The Settlement sets forth a list of issues that were resolved through the negotiation process. The Settlement accepts the Company's cost allocation among rate class groups as set forth in the Company's filed case.

The parties were unable to reach an agreement on whether the costs allocated to Default Service Procurement Classes 1, 2, and 3 should be recovered from both shopping and non-shopping customers. The Settlement reserves that issue for briefing and for a decision by the Commission.

Conclusion

For the reasons enumerated in this statement, the OSBA supports the proposed Settlement and respectfully requests that the Administrative Law Judge and the Commission approve the Settlement document in its entirety without modification.

Respectfully submitted,



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