

COMMONWEALTH OF PENNSYLVANIA



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IRWINA. POPOWSKY
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February 13, 2012

Rosemary Chiavetta, Secretary
PA Public Utility Commission
Commonwealth Keystone Bldg.
400 North Street
Harrisburg, PA 17120

RE: Petition of PECO Energy Company for Approval of
Its Default Service Program
Docket No. P-2012-2283641

Dear Secretary Chiavetta:

Enclosed please find the Office of Consumer Advocate's Answer in the
above-captioned proceeding.

Copies have been served upon all parties of record as shown on the attached
Certificate of Service.

Sincerely,

Christy M. Appleby
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Assistant Consumer Advocate
PA Attorney I.D. # 85824

Enclosures

cc: Honorable Dennis J. Buckley
Office of Special Assistants
Certificate of Service

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of PECO Energy Company :
For Approval of its Default : Docket No. P-2012-2283641
Service Program :

ANSWER
OF THE
OFFICE OF CONSUMER ADVOCATE

I. Introduction

On January 13, 2012, PECO Energy Company (PECO or the Company) filed its Petition for Approval of its Second Default Service Program (DSP II or the Program) pursuant to 66 Pa.C.S. § 2807(e) of the Pennsylvania Public Utility Code, the Default Service Regulations of the Pennsylvania Public Utility Commission (Commission), and the Commission's Policy Statement on Default Service. PECO seeks approval for its default service program and procurement plan for the period of June 1, 2013 through May 31, 2015.

In its Petition, PECO proposes to acquire supply for residential customers by transitioning from its current contract mix to a blend of laddered one-year and two-year full requirements products, with six months of spacing between the start of the contract delivery periods. Petition at ¶ 14. PECO avers that it will transition to a blend of contracts with term lengths that vary from six months to eighteen months. Id. The winning bidders for the default service supply contracts will also be responsible for transferring Tier I and Tier II Alternative Energy Credits (AECs) to PECO in order to meet PECO's requirements of the Alternative

Energy Portfolio Standards Act (AEPS Act) associated with the amount of default service load served by that supplier. Id. at ¶ 28.

The new plan for residential default service will be for a two year duration, starting on June 1, 2013 and ending on May 31, 2015. Petition at ¶ 19. The supplier contracts will have different terms, ranging from five (5) to twenty-four (24) months. There will be a limited “over-hang” of contracts that will extend beyond May 31, 2015. Id. at ¶ 20. This “over-hang” is to ensure that customers are not exposed to rate volatility associated with the replacement of a large portion of default service supply in a short period of time. Id. PECO proposes to conduct two solicitations before June 2013 – one in the Fall 2012 and one in the Winter 2013. Id. at ¶ 24. No supplier will be permitted to provide more than sixty-seven percent (67%) of the default service supply for any one of PECO’s procurement classes. Id. at ¶ 25.

PECO has proposed a Contingency Plan in the event that one or more tranches are not fully subscribed through the procurement process, or in the event that a winning bidder defaults prior to the time for delivery. In the event that a tranche is not fully subscribed or a subscriber defaults under the SMA, PECO will assume the responsibility of the Load Serving Entity (LSE) for any tranches that are unfilled in default service supply. Petition at ¶¶ 30-31. Any unfilled tranches will be procured from PJM-administered markets for energy, capacity and ancillary services. PECO will also procure sufficient Alternative Energy Credits (AECs) to meet its near-term obligations under the AEPS Act. Id. For those products with supply periods of six months or more, the unfilled tranches will be included in PECO’s next scheduled procurement. Id.

In its Petition, PECO proposes several changes to its rate design and cost recovery mechanisms. To recover the costs for serving residential customers, PECO proposes to continue

its quarterly adjusting of the Generation Supply Adjustment (GSA). For the over-and under-collection component of the GSA, PECO proposes an annual reconciliation procedure. Petition at ¶ 33. PECO also proposes to recover all of its AEPS-related costs in the GSA and to eliminate the AEPS Surcharge. Currently, PECO recovers the costs all of its AEPS obligations through: (1) the GSA for costs paid to each full requirements suppliers for AECs transferred to PECO and (2) the AEPS Surcharge for PECO's separate procurements of Tier I solar and non-solar AECs. Petition at ¶ 36.

PECO also proposes to change the way that the PJM Auction Revenue Rights (ARR) are addressed. PECO is proposing to include a cost or credit associated with ARRs in the GSA "C" factor. PECO then proposes a sharing of any net cost or benefits of the ARRs. Petition at ¶ 37; See also, PECO St. No. 2 at 21-22; PECO St. No. 5 at 14-16.

PECO's filing also includes several issues that, heretofore, have not been standard elements of an EDC's default service programs, including a Retail Opt-in Program and two new Customer Referral Programs - - a Standard Offer Customer Referral Program and a New/Moving Customer Program. Petition at ¶¶ 41, 48. PECO also proposes a new referral program for PECO Wind customers and a Seamless Move Collaborative. Petition at ¶ 57. PECO also proposes to bid out to an EGS the commodity service associated with its Time-of-Use (TOU) pilot. Petition at ¶ 38. Each of these items will be discussed in the following section.

II. Answer

The OCA has preliminarily reviewed the Company's Petition and identified a number of significant issues presented by the filing. The OCA anticipates that additional issues will arise as a more comprehensive review of PECO's filing is undertaken and after discovery is conducted. The preliminary issues identified by the OCA include:

A. Default Service Procurement and Implementation Plans

1. Procurement Classes, Program Term and Supply Portfolio

In DSP II, PECO proposes to transition the residential customer class supply portfolio from its current DSP I Plan contract mix of overlapping full requirements products; forward purchases of energy blocks and spot market purchases to a DSP II Plan that includes a blend of laddered one year and two year full requirements contracts. Petition at ¶¶ 13-14. Due to the structure of the existing mix of full requirements and block contracts, PECO avers that it will transition to a blend of contracts with term lengths that vary from six months to eighteen months. Id. The first procurement will be held in the Fall of 2012, and thereafter, each of the residential supply contracts will be procured approximately two to four months prior to the beginning of the applicable contract delivery period as compared to the approach of DSP I, where procurements occurred between four to eight months before the beginning of the applicable contract delivery period. Id.

PECO states that it does not propose further procurement of block energy products for the residential class. Petition at ¶ 15. PECO proposes to create additional tranches of load for the full requirements products as its current block energy contract terms expire. Id. The full requirements contracts that replace the block energy products will have delivery terms that end on May 31, 2015, the end of the DSP II plan period. Id.

The OCA submits that further evaluation is necessary to determine whether the proposed purchasing plan will provide the least cost over time for residential customers in accord with the requirements of Act 129. The OCA intends to examine the type and mix of resources, as well as the procurement methodologies, to ensure that the products and the plan are designed to meet the requirements of Act 129.

2. Competitive Bid Solicitation Process and Independent Evaluator

PECO proposes to solicit bids for default service supply beginning in Fall 2012, before the end of DSP I, so that PECO will not need to procure all of its default service supply immediately prior to the June 1, 2013 expiration of the DSP I contracts. Petition at ¶ 24. PECO will conduct two solicitations, one in the Fall 2012 and one in the Winter 2013. *Id.* PECO proposes to again use NERA as the independent third-party evaluator. *Id.* at ¶ 25. The Request for Proposal (RFP) will require that no supplier be permitted to provide more than sixty-seven percent (67%) of the default service supply for any one of PECO's procurement classes. *Id.*

The Commission should carefully review and examine the Company's proposed RFP and the solicitation process to ensure that the contracts are procured in the most effective manner in compliance with the Commission's regulations.

3. Consistency with Regional Transmission Organization Requirements

PECO also states that its program is "consistent with the legal and technical requirements pertaining to the generation, sale and transmission of electricity of the RTO [regional transmission organization] in whose control area the DSP is providing service." Petition at ¶ 27; 52 Pa. Code § 54.185(d)(4). PECO's Supplier Master Agreements (SMA) will continue to impose requirements on both PECO and its suppliers to maintain specific qualifications under applicable PJM agreements and rules and all other regulatory authorizations necessary to perform the contractual obligations. Suppliers seeking to provide default service generation must be able to establish that they can fulfill the technical and regulatory requirements of the SMA, including demonstration that there is no impediment to becoming a "load serving entity" (LSE) under PJM's rules. *Id.* at ¶ 27.

The Commission should carefully examine the Company's proposed procedures to ensure that potential suppliers meet all technical and regulatory requirements as necessary under PJM's rules.

4. AEPS Compliance

PECO avers that it will continue to satisfy its AEPS Act obligations by requiring each full requirements default service supplier to transfer Tier I and Tier II AECs to PECO. The AEC credits will correspond to PECO's AEPS obligations associated with the amount of default service load served by that supplier. Petition at ¶ 28. In addition, PECO proposes to continue to allocate AECs obtained through prior AEPS procurements towards suppliers' obligations under the SMA in accord with the percentage of load served by each supplier. Id. at ¶ 29. PECO avers that it will retain a percentage of the AECs to meet its AEPS requirements associated with default service industrial customers and any load associated with the remaining portion of the PECO Share of residential customers. Id. PECO also plans to buy and sell additional AECs as needed in order to be able to meet the AEPS requirements and to manage its inventory of AECs obtained in prior Commission-approved procurements. Id.

The OCA submits that this methodology should be examined to determine whether it produces the lowest reasonable cost for alternative energy credits and whether it appropriately supports the development of the alternative requirements needed under the AEPS Act.

B. Contingency Plans

PECO proposes that it will assume the responsibility of the LSE for any tranches that are unfilled in default service supply procurement or the event that PECO experiences a supplier default under the SMA. Petition at ¶¶ 30-31. For those tranches, PECO avers that it

will procure default service supply from PJM-administered markets for energy, capacity and ancillary services. PECO will also obtain sufficient AECs at market prices to satisfy the near-term obligations under the AEPS Act. Id. PECO proposes that for those products with supply periods of six months or more, the unfilled tranches will be included in PECO's next scheduled procurement with a shortened supply period so that the delivery will end on the same date as in the original procurement. Id. Alternatively, PECO will file a plan with the Commission regarding alternative procurement options and a request for approval of the plan on an expedited basis.

The OCA submits that the contingency plan must be thoroughly reviewed in the hearing process to ensure that it neither abrogates the Commission's review of the plan itself nor relies too heavily on spot market purchases.

C. Rate Design and Cost Recovery

PECO proposes to continue its existing rate design with modifications to improve price signals to customers, including changes to the default service rate adjustment and reconciliation process. Petition at ¶ 32.

Under DSP I, PECO adjusts and reconciles the GSA for its default service rates on a quarterly basis for residential customers. Petition at ¶ 33. Under DSP II, PECO proposes to continue to adjust the cost of generation supply on a quarterly basis, but the GSA reconciliation mechanism will change from a quarterly reconciliation to an annual reconciliation for the over-and under-collection component for residential customers. Petition at ¶ 33. PECO avers that the current timing of the reconciliation mechanism, in combination with the billing cycle lag and seasonal variations, results in swings in the over-and under-collection component of the GSA that are unrelated to the costs of default service supply. Petition at ¶ 34. The OCA in general

supports the use of an annual reconciliation mechanism for over-and under-collections because it will smooth out large quarterly swings in collections and credits. The OCA submits that the details of PECO's proposed reconciliation mechanism should be examined to ensure that it is consistent with the Public Utility Code, applicable regulations concerning reconciliation mechanisms, and sound ratemaking principles.

PECO proposes changes to the tariff relating to PJM Auction Revenue Rights (ARR). Petition at ¶ 37; See also, PECO St. No. 2 at 21-22; PECO St. No. 5 at 14-16. An ARR is "the mechanism by which PJM allocates proceeds from the annual auction of Financial Transmission Rights ("FTRs"), which are rights to receive compensation associated with transmission congestion between points in the transmission system operated by PJM." PECO St. No. 1 at 12, fn. 4. The ARRs entitle the holder to an allocation of the revenues from the annual Financial Transmission Right (FTR) Auction. PECO St. No. 5 at 14. Currently, the GSA does not address ARRs, but PECO has passed through 100% of the costs and benefits from its exercise of ARRs to customers. Id. at 15. PECO now proposes a 50/50 sharing of the costs and benefits to provide PECO an incentive to "select transmission paths that may be more financially beneficial." Id. at 15-16. The OCA submits that this issue needs to be carefully examined in the hearing process to understand the impact on residential customers and whether such proposal is consistent with Act 129 and sound ratemaking principles.

In its Petition, PECO also proposes to solicit bids from EGSs to provide the commodity service for PECO's Time-of-Use pilot program. Petition at ¶ 38. PECO's Time-of-Use pilot was approved in the Petition of PECO Energy Company for Approval of its Initial Dynamic Pricing and Customer Acceptance Plan, Docket No. M-2009-2123944 (Order entered April 15, 2011). The OCA will examine the reasonableness of this proposal and the impacts on

non-participating customers. Further, the OCA examine the proposed bidding process to ensure that it is consistent with Act 129, the Public Utility Code and other applicable law.

Finally, PECO also proposes to collect all of its AEPS-related costs in the GSA. Currently, PECO recovers the costs all of its AEPS obligations through: (1) the GSA for costs paid to each full requirements suppliers for AECs transferred to PECO and (2) the AEPS Surcharge for PECO's separate procurements of Tier I solar and non-solar AECs. Petition at ¶ 36. In DSP II, PECO proposes to eliminate the AEPS surcharge and to recover all of its AEPS compliance costs through the GSA. Id. The OCA will examine PECO's proposal to recover all of its AEPS compliance costs through the GSA to ensure that it is consistent with the Public Utility Code and other applicable law.

D. Retail Market Enhancements

1. Retail Opt-in EGS Offer Program

The Company proposes to implement an "opt-in" program in which EGSs will bid to provide competitive retail electric service to fifty percent of PECO's non-shopping default service residential customers (the Retail Opt-in EGS Offer Program). Petition at ¶ 41. These non-shopping default service customers will be randomly selected by PECO. PECO will issue a one-time RFP for twelve-month fixed-price retail service offers from EGSs for service to begin after June 1, 2013. Id. The EGSs can submit multiple bids with an offer price and the number of customers to be served at that price. The offer must be available to a minimum of 25,000 customers. Id. The proposed offer price must be at least five percent less than PECO's projected Price to Compare for June 1, 2013. Id.

PECO proposes that the program be implemented by PECO and an independent RFP monitor, with the pre-bidding conference to occur in January 2013 and the RFP to be issued

no later than April 2013. Petition at ¶ 42. The results will be submitted to the Commission for approval, and if the Commission approves the results, each winning EGS will be obligated to send an offer letter to each of its assigned customers. Id. at ¶ 43. The enrollment period will last for thirty days, and if the customer elects to accept the offer, the EGS will be required to enroll the customer. Id. at ¶¶ 44-45. After the end of the twelve month period, an enrolled customer will not automatically return to default service. The EGS may establish new prices after the twelve month period, but the EGS must inform each customer of his or her right to choose a different EGS or to return to default service. Id. at ¶ 46.

The cost of the process will be recovered by PECO from the winning EGSs, in proportion to the number of customers awarded to each EGS. In the event that there are no winning EGSs, the costs will be recovered through a discount on purchased EGS receivables until the costs are fully recovered. Id. at ¶ 47.

The OCA submits that this “opt-in” offer program must be thoroughly analyzed to ensure its compliance with the Public Utility Code and to ensure that such a program does no harm to default service, consumers or the retail competitive market. Such a program must be carefully coordinated with other competitive enhancements in order to avoid undue customer confusion. These issues will need to be thoroughly examined in this proceeding.

2. Customer Referral Programs

PECO proposes to implement two customer referral programs: (1) Standard Offer Customer Referral Program and (2) New/Moving Customer Referral Plan. Petition at ¶ 48.

The Standard Offer Customer Referral Program would be designed to highlight EGS offers to PECO’s residential customers. Petition at ¶ 49. Each month, participating EGSs would submit to an independent evaluator a binding, fixed-price bid to provide electric

generation service to residential customers for a twelve month period beginning approximately six weeks after the bid date. Petition at ¶ 50. The EGS with the lowest offer will be presented on PECO's website. This offer will be updated on a monthly basis. In the event that the winning bid price is not lower than PECO's PTC at the time of solicitation or the PTC that will take effect the following month, there will be no standard offer selected for the month. Petition at ¶ 51. Customers can participate in the program on an opt-in basis and may switch to a different offer with the winning supplier, to a different supplier or return to default service at any time without penalty. CAP customers will not be eligible to participate. Petition at ¶ 52, 54.

PECO also proposes to implement a New/Moving Customer Referral Program for residential customers. Petition at ¶ 55. The program will include revised and enhanced call center scripts promoting shopping and PAPowerSwitch.com. Id. PECO will also create an updated version of its "New/Mover Kit" to provide an enhanced description of shopping and include the listing of current supplier offers and Commission provided contact information. Id. PECO anticipates coordinating this program with the Supplier of the Month Program. Id.

PECO avers that the initial and on-going costs of the Customer Referral programs will be recovered by PECO through a discount on purchased EGS receivables. Petition at ¶ 56.

The OCA submits that the Commission should review the proposed Customer Referral Programs to ensure that the programs are reasonably designed. In addition, implementation of the Opt-In EGS Offer Program and the Customer Referral Programs as proposed by PECO must be carefully reviewed and coordinated to avoid undue customer confusion. These issues will need to be thoroughly examined in this proceeding.

3. Additional Retail Market Enhancements

a. Referral of PECO Wind Customers

PECO proposes that as the PECO Wind program is eliminated, the Company will refer all current PECO Wind customers to interested EGSs who offer customers a “green energy” product. Petition at ¶ 57. The OCA submits that the details of the Company’s proposed referral program must be thoroughly examined in order to ensure its compliance with existing law and the Commission’s regulations. In addition, the proposed referral program should be carefully coordinated to avoid undue customer confusion.

b. Seamless Moves

PECO also plans to develop a collaborative with interested EGSs to develop technical requirements and cost estimates for system changes required to permit residential and commercial customers to change their service address and to maintain their existing EGS service. Petition at ¶ 57. PECO proposes that it will implement this change if fifty percent of the EGSs participating in the collaborative agree to support its implementation. *Id.* PECO avers that the implementation costs would be recovered through a temporary discount on EGS receivables purchased from the EGS. *Id.*

The OCA submits that the Commission should review this proposal and the results of the collaborative.

E. Procedural Issues

PECO provides a proposed procedural schedule in its Petition. Petition at ¶ 58. The OCA submits that the schedule proposed by PECO in its Petition provides insufficient time for the Intervenor to conduct discovery on these extensive proposals and to develop Direct

Testimony. The OCA will work with all parties to develop a mutually agreeable procedural schedule.

WHEREFORE, the Office of Consumer Advocate respectfully requests that this matter be set for hearings. Hearings are necessary to ensure that the default service rates that will be charged starting June 1, 2013 are just and reasonable and otherwise consistent with Pennsylvania law.

Respectfully submitted,


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DATE: February 13, 2012
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CERTIFICATE OF SERVICE

Re: Petition of PECO Energy Company for Approval of Its Default Service Program
Docket No. P-2012-2283641

I hereby certify that I have this day served a true copy of the foregoing document, the Office of Consumer Advocate's Answer, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 13th day of February 2012.

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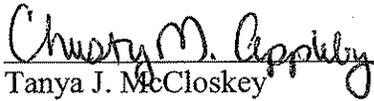
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