

**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 SMALL BUSINESS ADVOCATE  
TO PETITION OF PECO ENERGY COMPANY  
FOR APPROVAL OF ITS DEFAULT SERVICE PROGRAM**

**Procedural History**

On or about January 13, 2012, PECO Energy Company (“PECO” or “the Company”) filed the Petition of PECO Energy Company for Approval of Its Default Service Program (“Petition”) with the Pennsylvania Public Utility Commission (“Commission”) pursuant to Section 2807(e) of the Public Utility Code, the Default Service Regulations,<sup>1</sup> and the Commission’s Policy Statement on Default Service. The Petition seeks approval of PECO’s proposed second Default Service Program (“DSP II”) to secure default service supply for the Company’s customers for the period from June 1, 2013 through May 31, 2015.

The Office of Small Business Advocate (“OSBA”) filed a Notice of Intervention and Public Statement on February 2, 2012.

The OSBA files the following Answer in response to the corresponding numbered averments in the Company’s Petition.

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<sup>1</sup> All capitalized terms used herein and not otherwise defined shall have the meaning ascribed to them in the Petition.

## ANSWER

### **Un-numbered paragraphs on pages one, two, and three**

The first un-numbered paragraph describes the filing made by the Company, and constitutes a prayer for relief to which no response is required.

The second un-numbered paragraph makes several assertions about the success of PECO's current default service program ("DSP I"). To the extent a response is deemed necessary, the averments of this paragraph are denied.

The third un-numbered paragraph states several conclusions of law to which no response is required, including that the Company's DSP II is "In accordance with the Competition Act, the Commission's Default Service Regulations, and the Default Service Policy Statement" and is designed to enable PECO to obtain a "prudent mix" of procurement contracts and thereby ensure that default service customers have access to an "adequate and reliable" supply of generation at "least cost over time." To the extent a response to any of these conclusions of law is deemed necessary, those averments are denied.

### **I. INTRODUCTION**

1. Admitted.
2. Admitted.
3. The averments of this paragraph cite provisions of section 2807(e) of the Competition Act, 66 Pa. C.S. § 2807(e), which, being a writing, speaks for itself, and therefore no response is required.

4. The averments of this paragraph cite provisions of section 54.185 of the Commission's Default Service Regulations, 52 Pa. Code §54.185, which, being a writing, speaks for itself, and therefore no response is required.

5. The averments of this paragraph cite to *Implementation of Act 129 of October 15, 2008; Default Service and Retail Electric Markets*, Docket No. L-2009-2095604, Order entered October 4, 2011, which, being a writing, speaks for itself, and therefore no response is required.

6. The averments of this paragraph cite to *Investigation of Pennsylvania's Retail Electricity Market: Recommended Directives on Upcoming Default Service Plans*, Docket No. I-2011-2237952, Order entered December 16, 2011, which, being a writing, speaks for itself, and therefore no response is required. The last sentence of this paragraph references PECO's alleged incorporation of the Commission's recommendations in its DSP II, which is a conclusion of law to which no response is required. To the extent a response is deemed necessary, the averments of this sentence are denied.

7. Paragraph 7 contains a statement of the contents of the Petition, which requires no response.

8. The averments of this paragraph requests that the Commission act upon the Petition by a certain date, and as such, the averments of this paragraph constitute a prayer for relief to which no response is required.

## **II. PECO'S DEFAULT SERVICE PROCUREMENT AND IMPLEMENT PLANS**

### **A. Procurement Classes, Program Term and Supply Portfolio**

9. The averments of this paragraph describe PECO'S DSP I, to which no response is required.

10. The averments of this paragraph outline the Company's proposal to maintain the same division of default service customers in DSP II as in DSP I, and as such, these averments constitute a prayer for relief to which no response is required. To the extent a response is deemed necessary, the averments of this paragraph are denied.

11. The averments of this paragraph outline the Company's proposal to make changes to its default supply portfolios, and as such, these averments constitute a prayer for relief to which no response is required. To the extent a response is deemed necessary, the averments of this paragraph are denied.

12. The averments of this paragraph describe the nature of full-requirements, load-following contracts and are admitted.

13. The averments of this paragraph describe PECO'S current default service portfolio for the Residential class, to which no response is required.

14. The averments of this paragraph outline the Company's proposed transition of the Residential class supply portfolio from its current contract mix to a blend of laddered one-year and two-year full requirements products, and as such, these averments constitute a prayer for relief to which no response is required. To the extent a response is deemed necessary, the averments of this paragraph are denied.

15. The averments of this paragraph describe that the Company does not propose further procurement of block energy products for the Residential class, and as such, these averments constitute a prayer for relief to which no response is required. To the extent a response is deemed necessary, the averments of this paragraph are denied.

16. The first two sentences of this paragraph describe PECO's current default service portfolio for the Small Commercial class, to which no response is required. The remaining averments of this paragraph outline the Company's proposed changes to the Small Commercial class supply portfolio, eliminating two-year and spot-priced full requirements products and replacing them with laddered one-year full requirements products, and as such, these averments constitute a prayer for relief to which no response is required. To the extent a response is deemed necessary, the averments of this paragraph are denied.

17. The averments of this paragraph outline the Company's proposal for the Medium Commercial class supply portfolio, replacing the current mix of 85% one-year fixed-price full requirements products and 15% spot-price products with six-month fixed-price full requirements products without overlap, and as such, these averments constitute a prayer for relief to which no response is required. To the extent a response is deemed necessary, the averments of this paragraph are denied.

18. The averments of this paragraph outline the Company's proposal for the Large Commercial and Industrial, to eliminate spot-priced full requirements contracts entirely and procure all default service supply directly from the PJM energy markets, and as such, these averments constitute a prayer for relief to which no response is required. To the extent a response is deemed necessary, the averments of this paragraph are denied.

19. The averments of this paragraph state the term of PECO's DSP II, June 1, 2013 through May 31, 2015, and that such term is consistent with the Commission's recommendations, and are admitted.

20. The first sentence of this paragraph describes the terms of contracts on which suppliers will bid under PECO's DSP II, and as such, these averments constitute a prayer for relief to which no response is required. The second sentence is a conclusion of law regarding the Commission's recommendations in the Retail Market Investigation to which no response is required. To the extent a response is deemed necessary, the averments of this paragraph are denied.

21. The OSBA is without sufficient first-hand knowledge or information to form a belief concerning the truth of any factual averment of this paragraph regarding "over-hang" contracts and as such, the factual averments of this paragraph are denied. The averments of this paragraph cite to Commission regulations and Order, which, being writings, speak for themselves, and therefore no response is required. The averments of this paragraph state several conclusions of law to which no response is required. To the extent a response is deemed necessary, the averments of this paragraph are denied.

22. This paragraph contains a summary of the proposed procurement plan for each customer class, and as such, constitutes a prayer for relief to which no response is required. To the extent a response is deemed necessary, the averments of this paragraph are denied.

23. The averments of this paragraph outline the Company's proposed changes to the terms of the SMA, and as such, constitute a prayer for relief to which no response is required. The OSBA is without sufficient first-hand knowledge or information to form a belief concerning the truth of any averment regarding PECO's current SMA, and as such, the averments of this paragraph are denied.

**B. Competitive Bid Solicitation Process and Independent Evaluator**

24. The averments of this paragraph outline the Company's plan for two procurements, in Fall 2012, and Winter 2013, and as such, these averments constitute a prayer for relief to which no response is required. The averment that these procurements are consistent with Commission guidance is a conclusion of law to which no response is required. To the extent a response is deemed necessary, the averments of this paragraph are denied.

25. The averments of this paragraph outline the Company's plan to obtain bids for default service supply through a request for proposals ("RFP") process conducted by NERA as independent third-party evaluator and also describe proposed changes to the RFP rules. As such, these averments constitute a prayer for relief, to which no response is required. To the extent a response is deemed necessary, the averments of this paragraph are denied.

26. The averments of this paragraph state several conclusions of law regarding PECO's proposed competitive procurement process to which no response is required. The averments of this paragraph also request that the Commission approve the revised SMA as an affiliated interest agreement, and as such, these averments constitute a prayer for relief to which no response is required. To the extent a response is deemed necessary, the averments of this paragraph are denied.

**C. Consistency With Regional Transmission Organization Requirements**

27. The averments of this paragraph state several conclusions of law to which no response is required. To the extent a response is deemed necessary, the averments of this paragraph are denied.

#### **D. AEPS Compliance**

28-29. The averments of these paragraphs outline PECO's plans with regards to its Alternative Energy Portfolio Standards ("AEPS") requirements, and as such, these averments constitute a prayer for relief, to which no response is required. The OSBA is without sufficient first-hand knowledge or information to form a belief concerning the truth of any averment that PECO is currently meeting its AEPS requirements, and any such averment is denied.

#### **III. CONTINGENCY PLANS**

30-31. The averments of these paragraphs outline the Company's proposed contingency plans in the event PECO does not obtain sufficient supply through its procurement processes or experiences a supplier default under the SMA, and as such, these averments constitute a prayer for relief, to which no response is required. Any averment that these proposed contingency plans are in accordance with the Commission's Default Service Regulations is a conclusion of law to which no response is required. To the extent a response is deemed necessary, the averments of these paragraphs are denied.

#### **IV. RATE DESIGN AND COST RECOVERY**

32-33. The averments of these paragraphs describe the Company's proposed rate design and how such rate design differs from the rate design in DSP I, and as such, these averments constitute a prayer for relief to which no response is required. To the extent a response is deemed necessary, the averments of these paragraphs are denied.

34. The first averment of this paragraph describes PECO's current practice of quarterly reconciliation of the GSA, to which no response is required. The second averment states that quarterly reconciliation results in swings in the over/under collection component of

the GSA unrelated to the current costs of default service supply. The OSBA is without sufficient first-hand knowledge or information to form a belief concerning the truth of this averment, and as such, this averment is denied. The third averment states that annual reconciliation would reduce swings so that the GSA would more accurately reflect current supply costs and provide better information for customer shopping decisions. The OSBA is without sufficient first-hand knowledge or information to form a belief concerning the truth of this averment, and as such, this averment is denied.

35. The first averment of this paragraph state that large commercial and industrial customers are also affected by fluctuations in the GSA. The OSBA is without sufficient first-hand knowledge or information to form a belief concerning the truth of this averment, and as such, this averment is denied. The second averment states that PECO is proposing tariff changes to allow mitigation strategies, and as such, constitutes a prayer for relief to which no response is required. To the extent a response is deemed necessary, the averments of this paragraph are denied.

36. The averments of this paragraph describe the Company's proposal to include all AEPS-related costs in the GSA and eliminate the AEPS Surcharge from its tariff, and as such, these averments constitute a prayer for relief to which no response is required. To the extent a response is deemed necessary, the averments of this paragraph are denied.

37. The averments of this paragraph describe the Company's proposal to eliminate several expiring rate provisions from its tariff, and as such, these averments constitute a prayer for relief to which no response is required. To the extent a response is deemed necessary, the averments of this paragraph are denied.

38. The averments of this paragraph describe PECO's proposal to solicit EGS participation to provide the commodity service for its time-of-use ("TOU") pilot, and as such, these averments constitute a prayer for relief to which no response is required. To the extent a response is deemed necessary, the averments of this paragraph are denied.

39. The averments of this paragraph request that the Commission expressly affirm that PECO has a right to full and current recovery of all costs of DSP II, and as such, these averments constitute a conclusion of law and a prayer for relief to which no response is required. To the extent a response is deemed necessary, the averments of this paragraph are denied.

#### **V. RETAIL MARKET ENHANCEMENTS**

40. The averments of this paragraph describe programs implemented under DSP I and PECO's proposal to pursue new retail market enhancements in DSP II, and as such, these averments constitute a prayer for relief to which no response is required. To the extent a response is deemed necessary, the averments of this paragraph are denied.

##### **A. Opt-In EGS Offer Program**

41-47. The averments of these paragraphs describe PECO's proposal to implement an "opt-in" program in which EGSs will bid to provide "competitive retail electric service" to 50% of PECO's non-shopping default service residential customers, and as such, these averments constitute a prayer for relief to which no response is required. To the extent a response is deemed necessary, the averments of these paragraphs are denied. As further answer, the OSBA notes that this program is only proposed for Residential, not Small Business customers. It is the OSBA's position that this program should not be extended to PECO's Small Business customers.

**B. Customer Referral Programs**

48-56. The averments of these paragraphs describe PECO's proposal to implement two customer referral programs, and as such, these averments constitute a prayer for relief to which no response is required. To the extent a response is deemed necessary, the averments of these paragraphs are denied.

**C. Additional Retail Market Enhancements**

57. The averments of this paragraph describe PECO's proposal to implement two additional initiatives, "Referral of PECO Wind Customers" and "Seamless Moves," and as such, these averments constitute a prayer for relief to which no response is required. To the extent a response is deemed necessary, the averments of this paragraph are denied.

**VI. PROCEDURAL ISSUES AND COMMISSION APPROVAL**

58. The averments of this paragraph constitute a proposed procedural schedule for this proceeding, to which no response is required. To the extent a response is deemed necessary, these averments are denied. *The OSBA will work diligently with the other parties to this proceeding to come up with a mutually agreeable procedural schedule.*

**VII. NOTICE**

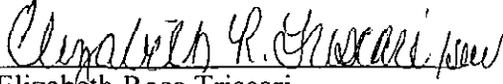
59. The averments of this paragraph regarding notice requirements constitute a prayer for relief, and as such, no response is required.

**VII. CONCLUSION**

The averments of this un-numbered paragraph constitute a prayer for relief and conclusions of law. Therefore, no response is required.

**WHEREFORE**, the OSBA respectfully requests that the Commission refer PECO's Petition to the Office of Administrative Law Judge for hearings and the preparation of an Initial Decision.

Respectfully submitted,

  
Elizabeth Rose Triscari  
Assistant Small Business Advocate  
Attorney ID No. 306921

For:  
Steven C. Gray  
Acting Small Business Advocate  
Attorney ID No. 77538

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(717) 783-2525  
(717) 783-2831 (fax)

Dated: February 2, 2012

**VERIFICATION**

I, Steven C. Gray, hereby state that the facts set forth herein above are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. §4904 (relating to unsworn falsification to authorities).

Date: February 2, 2012

  
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(Signature)

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PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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**FOR APPROVAL OF ITS DEFAULT               :**       **Docket No. P-2012-2283641**  
**SERVICE PROGRAM                               :**

**PUBLIC STATEMENT  
OF THE SMALL BUSINESS ADVOCATE**

The Small Business Advocate is authorized and directed to represent the interests of small business consumers of utility services in Pennsylvania under the provisions of the Small Business Advocate Act, Act 181 of 1988, 73 P.S. §§ 399.41 - 399.50 (“Act”). The Act further provides that the Small Business Advocate is to issue publicly a written statement setting forth concisely the specific interest of small business consumers to be protected by his initiation of or intervention in any proceeding involving those interests before the Pennsylvania Public Utility Commission (“Commission”) or any other agency or court. This public statement relates to the Small Business Advocate’s intervention in the above-captioned Commission proceeding.

On January 13, 2012, PECO Energy Company (“PECO” or “Company”) filed a petition for approval of its second default service program (“Petition”) to provide default service from June 1, 2013, through May 31, 2015.

The Small Business Advocate is intervening in the above-captioned proceeding in order to protect the interests of the Company’s small business customers. A thorough inquiry by the Commission into all of the elements of the Petition is necessary to ensure that the Company’s proposals for procuring electricity are in accord with the Public

Utility Code and with the Commission's regulations and policy statement regarding default service.

In view of the foregoing, the Small Business Advocate is requesting that the Petition be subject to investigation and evidentiary hearings before the Commission. The Small Business Advocate will ask the Commission to deny or modify any aspect of the Company's proposals that are not proven by PECO to be in accord with the Public Utility Code and with the Commission's regulations and policy statement regarding default service.

Dated: February 2, 2012