

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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IRWINA. POPOWSKY  
Consumer Advocate

March 12, 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 Prehearing Memorandum in the above-captioned proceeding.

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

Sincerely,

A handwritten signature in cursive script that reads "Christy M. Appleby".

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

Enclosures

cc: Honorable Dennis J. Buckley  
Certificate of Service

\*152560

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

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PREHEARING MEMORANDUM  
OF THE  
OFFICE OF CONSUMER ADVOCATE

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Pursuant to Section 333 of the Public Utility Code, 66 Pa.C.S. §333, and in response to the March 6, 2012 Prehearing Conference Order issued in the above-captioned matter, the Office of Consumer Advocate (OCA) provides the following information:

**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.

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 plans to 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.

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 adjustment of the Generation Supply Adjustment (GSA). For the over-and under-collection component of the GSA, PECO proposes an annual reconciliation procedure. Id. 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 of 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. Id. at ¶ 36.

PECO also plans 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 associated with its Time-of-Use (TOU) pilot. Petition at ¶ 38.

On March 2, 2012, the Commission entered its Order in the Investigation of Pennsylvania's Retail Electricity Market: Intermediate Work Plan (Intermediate Work Plan Order) at Docket No. I-2011-2237952. The Intermediate Work Plan addresses various programs related to enhancing retail competition. The Intermediate Work Plan Order will also need to be addressed by PECO and the parties to this proceeding.

The Petition was assigned to the Office of Administrative Law Judge and was further assigned to Administrative Law Judge Dennis J. Buckley for investigation and scheduling of hearings. On January 26, 2012, ALJ Buckley issued an Initial Prehearing Conference Notice and scheduled the Prehearing for Tuesday, March 13, 2012. On March 6, 2012, ALJ Buckley issued the Prehearing Conference Order in the matter.

The OCA filed an Answer to the Company's Petition and a Notice of Intervention and Public Statement on February 13, 2012. The OCA submits this Prehearing Memorandum in accord with the Prehearing Conference Order in this matter.

## **II. Issues and Sub-issues**

Based upon a preliminary analysis of the Company's Petition, the OCA has compiled a list of issues that it anticipates will be included its investigation of PECO's Default Service Plan. It is anticipated that other issues will arise and may be pursued as discovery proceeds.

The OCA has identified several issues that may require further review as follows:

(1) Default Service Procurement Classes, Program Term and Supply Portfolio: The OCA will examine whether the proposed laddered one year and two year contract mix of full requirements products, forward purchases of energy blocks and spot market purchases will provide the least cost over time for residential default service customers as required by the Commission's regulations and 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 and provide the least cost reliable supply, taking into account price stability for customers over time.

(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. PECO will conduct another solicitation in the Winter 2013. The OCA will examine the Company's proposed RFP and the solicitation process to ensure that the contracts are procured in the most effective manner.

(3) Consistency with Regional Transmission Organization Requirements: The OCA will review 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 proposes that it will satisfy the AEPS Act obligations by requiring each full requirements default 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 supplied by that supplier. The OCA will examine this methodology to determine whether it produces the lowest reasonable cost for alternative energy credits and whether it appropriately supports the development of the alternative resources required under the AEPS Act. The treatment of any AECs that the Company receives for existing energy efficiency and demand response programs will also be examined.

(5) Contingency Plans: The OCA will review the Company's plan to ensure that it neither abrogates the Commission's review of the plan itself nor relies too heavily on spot market purchases.

(6) Rate Design and Cost Recovery: PECO proposes three changes to its Generation Supply Adjustment (GSA) rider: (1) change to the reconciliation mechanism; (2) change to the allocation of costs and benefits from the PJM Auction Revenue Rights; and (3) collection of all of the AEPS costs through the GSA. The OCA submits that these proposals need to be carefully examined to understand the impact on residential customers, whether the proposals are consistent with Act 129, the Public Utility Code and applicable regulations and sound ratemaking principles.

(7) Time of Use Rates: PECO proposes to solicit bids from EGSs to provide the commodity service for PECO's Time-of-Use pilot program. The OCA will examine the reasonableness of the proposal and the impacts on non-participating customers. The OCA will also review the bidding process.

(8) Retail Opt-In EGS Offer Program: PECO 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. EGSs will bid an offer price and the number of customers to be served at that price. The proposed offer price must be at least five percent less than PECO's projected Price to Compare for June 1, 2013. The OCA will examine this proposal to ensure that the costs of the program are appropriately allocated to all stakeholders, to ensure that the program does no harm to default service, consumers or the retail competitive market.

(9) Customer Referral Programs: PECO proposes several new Customer Referral Programs, including a Standard Offer Customer Referral Program; New/Moving Customer Referral Plan; a PECO Wind Customer Referral Program; and a Seamless Moves Collaborative. The OCA will examine the proposed Customer Referral Programs and the costs that may arise from the implementation of such programs to ensure that such programs are reasonably designed, cost-justified and that the costs are appropriately allocated among stakeholders. The OCA will also review the details of the programs to ensure that they comply with existing law and Commission regulations and to ensure that they are carefully coordinated to avoid undue customer confusion.

### III. Witnesses

The OCA intends to present the direct, rebuttal and surrebuttal testimony, as may be necessary, of Mr. Richard Hahn and Ms. Barbara Alexander. The OCA's witnesses will present testimony in written form and will also attach various exhibits, documents, and explanatory information which will assist in the presentation of the OCA's case. In order to expedite the resolution of this proceeding, the OCA requests that copies of all interrogatories, testimony and answers to interrogatories be mailed directly to the OCA witness at the below address, as well as mailing a copy to counsel for the OCA.

Richard Hahn  
La Capra Associates  
One Washington Mall  
9<sup>th</sup> Floor  
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Fax: 617-778-5528  
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Barbara R. Alexander  
83 Wedgewood Drive  
Winthrop, ME 04364  
Telephone: 207-395-4143  
Fax: 207-395-4143  
E-mail: [barbalex@ctel.net](mailto:barbalex@ctel.net)

The OCA specifically reserves the right to call additional witnesses, as necessary. As soon as the OCA has determined whether an additional witness or witnesses will be necessary for any portion of its case, the OCA will notify Administrative Law Judge Buckley and all parties of record.

#### **IV. Discovery**

Because the time period for discovery and preparation of testimony is limited, the OCA supports a shortened discovery response time in this proceeding, consistent with the modifications approved in the prior PECO DSP proceeding and numerous other default service proceedings. The OCA, therefore, requests the following modifications to the discovery regulations:

A. Answers to written interrogatories be served in-hand within ten (10) calendar days of service of the interrogatories.

B. Objections to interrogatories be communicated orally within three (3) calendar days of service; unresolved objections be served to the ALJ in writing within five (5) days of service of interrogatories.

C. Motions to dismiss objections and/or direct the answering of interrogatories be filed within three (3) calendar days of service of written objections.

D. Answers to motions to dismiss objections and/or direct the answering of interrogatories be filed within three (3) calendar days of service of such motions.

E. Responses to requests for document production, entry for inspection, or other purposes be served in-hand within ten (10) calendar days.

F. Requests for admission be deemed admitted unless answered within ten (10) calendar days or objected to within five (5) calendar days of service.

**V. Service on the OCA**

The OCA will be represented in this case by Tanya J. McCloskey, Candis A. Tunilo and Christy M. Appleby. Two copies of all documents should be served on the OCA as follows:

Candis A. Tunilo  
Assistant Consumer Advocate  
Office of Consumer Advocate  
5<sup>th</sup> Floor, Forum Place  
555 Walnut Street  
Harrisburg, Pa. 17101-1923  
Telephone: 717-783-5048  
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**VI. Settlement**

The OCA is willing to engage in settlement discussions on the issues.

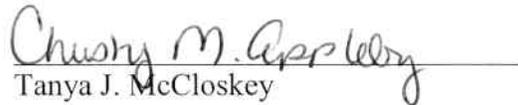
**VII. Proposed Schedule**

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

**VIII. Public Input Hearings**

At present, the OCA has not received a request for a public input hearing. The OCA will make prompt notification and request a public input hearing should sufficient consumer interest in one arise.

Respectfully submitted,



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DATE: March 12, 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 Prehearing Memorandum, 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 12th day of March 2012.

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