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June 13, 2012

**Via Electronic Filing**

Rosemary Chiavetta, Secretary  
PA Public Utility Commission  
PO Box 3265  
Harrisburg, PA 17105-3265

RE: Petition of PECO Energy Company for expedited approval of its Dynamic Pricing  
Plan Vendor Selection and Dynamic Pricing Plan Supplement  
Docket No. P-2012-2297304

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Dear Secretary Chiavetta:

The Retail Energy Supply Association (“RESA”)<sup>1</sup> hereby expresses its support for the Petition to Intervene and Opposition (“Intervention Petition”) filed by Reliant Energy Northeast LLC (“Reliant”) in the above-mentioned matter.

RESA is generally supportive of proposals that use electric generation suppliers (“EGSs”) in the provision of time-of-use (“TOU”) service.<sup>2</sup> But, RESA is concerned that the rules proposed by PECO for its TOU pilot<sup>3</sup> are inconsistent with the progress made to date in improving competition in the retail electricity market. RESA urges the Commission to carefully consider the issues raised by RESA and to modify PECO’s proposal to ensure that the program is structured in a way that it will produce positive benefits to competition, be fair to the EGS providing the service, and, at the same time provide the TOU service mandated by law in a fair

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<sup>1</sup> RESA’s members include: Champion Energy Services, LLC; ConEdison *Solutions*; Constellation NewEnergy, Inc.; Direct Energy Services, LLC; Energetix, Inc.; Energy Plus Holdings LLC; Exelon Energy Company; GDF SUEZ Energy Resources NA, Inc.; Green Mountain Energy Company; Hess Corporation; Integrys Energy Services, Inc.; Just Energy; Liberty Power; MC Squared Energy Services, LLC; Mint Energy, LLC; NextEra Energy Services; Noble Americas Energy Solutions LLC; PPL EnergyPlus, LLC; Reliant and TriEagle Energy, L.P.. The comments expressed in this filing represent the position of RESA as an organization but may not represent the views of any particular member of RESA.

<sup>2</sup> Reliance on competitive market to comply with the TOU rate obligations in Act 129 is reasonable. Rather than using RFPs to select an EGS for the provision of TOU service, RESA has advocated, as an alternative, that PECO not conduct an RFP for EGS TOU service and instead rely on programs already being offered in the market by EGSs. RESA St. Nos. 2, 2-R, 2-SR (Chris Kallaher) in *Petition Of PECO Energy Company For Approval Of Its Default Service Program*, Docket No. P-2012-2283641.

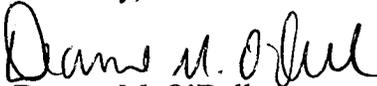
<sup>3</sup> *Petition of PECO Energy Co. for Expedited Approval of its Initial Dynamic Pricing Plan Vendor Selection and Dynamic Pricing Plan Supplement*, Docket No. M-2009-2123944 (filed April 2, 2012).

and reasonable manner. We believe that the modifications proposed by Reliant in its Intervention Petition are necessary to achieve those goals.

RESA is particularly concerned with the rule proposed by PECO that would return customers to default service if they do not affirmatively respond to contract renewal notices from Reliant.<sup>4</sup> TOU rates are only offered to customers on a voluntary (opt-in) basis.<sup>5</sup> The selection of TOU rates is an affirmative choice. Because they are opting in to a program where TOU service is being provided by an EGS, those customers should not be automatically returned to the default service without an affirmative action by the customer. Automatically returning customers to default service at the end of the TOU program would be “forcing” them back to default service, which would be contrary to the standard in 66 Pa. C.S. § 2807(d)(1). That same conclusion was reached in *Pike County*,<sup>6</sup> wherein this Commission found that if the aggregation customers were automatically returned to the default service without affirmative action by the customer, such an action would fail to give effect to their initial choice and would be contrary to 66 Pa. C.S. § 2807(d)(1). That conclusion is further reflected in Commission’s *Interim Guidelines Regarding Advance Notification by an Electric Generation Supplier of Impending Contractual Changes Affecting Customer Service*<sup>7</sup> and the *Intermediate Work Plan Final Order*,<sup>8</sup> as it relates to supplier referral programs and opt-in aggregation programs.

RESA submits that the concept of bidding the TOU rate offering to retail EGSs is in its early stages, and the issue of automatic return of those customers to default service requires careful attention from the Commission.

Sincerely,



Deanne M. O'Dell

DMO/lww

cc: Certificate of Service

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<sup>4</sup> *Id.* at ¶ 21, and Attachment 1 at § 3.8.

<sup>5</sup> *Compliance of Commonwealth of Pennsylvania with Section 410(a) of the American Recovery and Reinvestment Act of 2009*, Docket No. I-2009-2099881 (order entered August 1, 2011).

<sup>6</sup> *Petition of Pike County*, Docket Number P-2008-2044561 (order entered on July 26, 2010; reconsideration entered on October 14, 2010).

<sup>7</sup> *Interim Guidelines Regarding Advance Notification by an Electric Generation Supplier of Impending Changes Affecting Customer Service; Amendment re: Supplier Contract Renewal/Change Notices*, Docket No. M-2010-2195286; Docket No. M-0001437 (order entered September 23, 2010).

<sup>8</sup> *Investigation of Pennsylvania’s Retail Electricity Market: Intermediate Work Plan*, Docket No. I-2011-2237952 (Final Order entered March 2, 2012), Final Order at 32.

**CERTIFICATE OF SERVICE**

I hereby certify that this day I served a copy of the foregoing Letter upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54.

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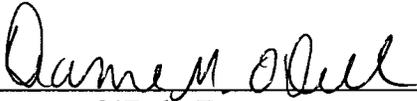
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Deanne O'Dell, Esq.

Dated: June 13, 2012