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June 18, 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 Approval of  
Its Default Service Program; Docket No. P-2012-2283641

Dear Secretary Chiavetta:

On behalf of ChoosePAWind.com enclosed please find the original of its Main Brief, with the electronic filing confirmation page, with regard to the above-referenced matter. Copies to be served in accordance with the attached Certificate of Service.

Very truly yours,



Jeffrey J. Norton

JJN/lww  
Enclosure

cc: Hon. Dennis J. Buckley w/enc.  
Certificate of Service w/enc.

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true copy of ChoosePAWnd.com's Main Brief upon the participants listed below in accordance with the requirements of § 1.54 (relating to service by a participant).

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Date: June 18, 2012

  
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Jeffrey J. Norton, Esquire

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

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**MAIN BRIEF OF  
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## **I. INTRODUCTION AND PROCEDURAL HISTORY**

### **A. Introduction**

ChoosePAWind.com (“ChoosePAWind”)<sup>1</sup> is an initiative to encourage energy consumers in the Commonwealth to power their businesses and homes with energy from Pennsylvania wind farms.<sup>2</sup>

PECO Energy Company (“PECO”) has proposed the elimination of its Wind Energy Service Rider (i.e., the “Wind Program”). Prior to the cessation of service under the Wind Program (which is scheduled for the end of 2012), PECO will make a one-time referral mailing to PECO’s Wind Program customers.<sup>3</sup> The implementation of this referral program directly impacts the efforts of ChoosePAWind to promote the use of wind energy products from Pennsylvania.<sup>4</sup>

In the view of ChoosePAWind, PECO’s planned referral mailing does not make a reasonable effort<sup>5</sup> to ensure that the Wind Program customers are fully informed of their available options concerning renewable energy products. To make PECO’s referral mailing fully

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<sup>1</sup> The comments expressed in this filing represent the position of ChoosePAWind.com as an organization but may not represent the views of any particular participant or supporter of ChoosePAWind.com.

<sup>2</sup> ChoosePAWind St. No. 1 at 2. Participants in ChoosePAWind include developers, owners and operators of wind farms in Pennsylvania and is open to all electric generation suppliers (“EGSs”) that support wind energy in the Commonwealth, including the service territory of PECO: Community Energy, Inc., is licensed to sell to residential, commercial, industrial & governmental customers throughout Pennsylvania, and the Energy Cooperative Association of Pennsylvania, is a Broker/Marketer, Aggregator working with residential, commercial, and governmental customers in PECO’s service territory. Other participants sell wind power to large power purchasers throughout Pennsylvania. The supporters of ChoosePAWind are organizations who are committed to work toward a cleaner and stronger Pennsylvania by supporting the use of local wind energy. *Id.*

<sup>3</sup> ChoosePAWind Exhibit JS-1 at PECO Response to GMEC-I-4(a), (b).

<sup>4</sup> ChoosePAWind St. No. 1 at 2.

<sup>5</sup> PECO has the ultimate burden of proof in the proceeding and the initial burden of going forward with evidence showing that its proposals are lawful and reasonable. Section 332(a) of the Public Utility Code (“Code”) provides that the party seeking a rule or order from the Commission has the burden of proof in that proceeding. 66 Pa. C.S. § 332(a).

beneficial to PECO's Wind Program customers, ChoosePAWind has proposed that a reference to its specific website (and any other private web portals or website that offers similar renewable products) be included in the referral materials sent by PECO. These private web portals will give customers the greatest amount of information and choice in the referral mailing. And, importantly, the inclusion of ChoosePAWind's website will help ensure that PECO's Wind Program customers are given information related to purchasing energy from Pennsylvania wind farms.<sup>6</sup>

## **B. Procedural History**

PECO<sup>7</sup> filed a Petition for Approval of its Default Service Program for the period beginning June 1, 2013 through May 31, 2015 ("Petition"). As part of this Petition, PECO proposed the elimination of its Wind Program.<sup>8</sup> As proposed, PECO will begin announcements concerning the end of its Wind Program in August 2012.<sup>9</sup> PECO expects to stop accepting new enrollments for the Wind Program on September 1, 2012 and will make a referral mailing to its Wind Program customers in October 2012.<sup>10</sup> PECO will end the Wind Program on December 31, 2012.<sup>11</sup>

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<sup>6</sup> ChoosePAWind St. No. 1 at 6.

<sup>7</sup> PECO currently provides default service pursuant to Commission-approved default service plans that will expire on May 31, 2013. *See Petition of PECO Energy for Approval of its Default Service Program and Rate Mitigation Plan*, Docket No. P-2008-2062739 (Order entered June 2, 2009) ("DSP I Order").

<sup>8</sup> PECO St. No. 5 at 14; at Petition, at ¶ 37.

<sup>9</sup> ChoosePAWind Exhibit JS-1 at PECO Response to GMEC-I-2(b).

<sup>10</sup> ChoosePAWind Exhibit JS-1 at PECO Response to GMEC-I-4(a), (b).

<sup>11</sup> ChoosePAWind Exhibit JS-1 at PECO Response to GMEC-I-2(a).

The prehearing conference was held by Administrative Law Judge (“ALJ”) Dennis J. Buckley. At that time, *inter alia*, ChoosePAWind’s timely Petition for Intervention was granted.

The parties took discovery and served written direct, rebuttal and surrebuttal testimony. A hearing was held on May 22, 2012, at which time pre-filed written testimony and exhibits were admitted into the record, and party witnesses were made available for cross examination.

## **II. DEFAULT SERVICE PROCUREMENT AND IMPLEMENTATION PLANS**

### **A. Summary of Briefing Party’s Position**

ChoosePAWind takes no position on the issues in Section II.

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

### **A. Summary of Briefing Party’s Position**

ChoosePAWind takes no position on the issues in Section III.

## **IV. RETAIL MARKET ENHANCEMENTS**

### **A. Summary of Briefing Party’s Position**

PECO has proposed a one-time referral mailing to PECO’s Wind Program customers. This mailing will take place approximately ninety (“90”) days before the termination of PECO’s Wind Program. But, as proposed, PECO’s referral mailing does not make a reasonable effort to ensure that the Wind Program customers are fully informed of their available options concerning renewable energy products.

ChoosePAWind has recommended a modification to PECO’s proposed referral program to help ensure that the customers impacted by PECO’s elimination of the Wind Program will

have the greatest amount of information and choice. Specifically, ChoosePAWind has proposed that a reference to its website (and any other website that offers similar renewable products)<sup>12</sup> be added to PECO's referral mailing. The inclusion of the ChoosePAWind website (and other relevant websites) will make this referral program more informative and beneficial to the customers using PECO's soon-to-be-eliminated Wind energy product because it will provide them with additional and valuable resource(s) seeking information on purchasing green energy products.

**B. EGS Opt-In Competitive Offer Program**

ChoosePAWind takes no position on the issues in Section IV(B).

**C. EGS Standard Offer Program**

ChoosePAWind takes no position on the issues in Section IV(C).

**D. Participation By Low-Income Customers In Proposed Retail Market Enhancements**

ChoosePAWind takes no position on the issues in Section IV(D).

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<sup>12</sup> ChoosePAWind recommends that if such websites exist that they should also be included in the mailing. For example, reference to the Green Energy Collaborative ("GEC") could be included (<http://www.citizenpower.com/GEC/aboutus.html>). GEC is a program administered by Citizen Power aimed at promoting renewable energy resource development by encouraging individuals in western Pennsylvania to purchase competitively priced 100% certified renewable electricity. Other websites currently offering Pennsylvania renewable products include Community Energy ([www.communityenergyinc.com](http://www.communityenergyinc.com)) and The Energy Cooperative Association ([www.theenergy.coop](http://www.theenergy.coop)).

**E. Additional Proposed Retail Market Enhancements**

1. Time-of-Use Offering

ChoosePAWind takes no position on the issues in Section IV(E)(1).

2. New/Moving Customer Referral Program

ChoosePAWind takes no position on the issues in Section IV(E)(2).

3. Referral of PECO Wind Customers

PECO intends to eliminate its Wind Program by the end of 2012. PECO's Wind Program gives customers an opportunity to support renewable wind energy.<sup>13</sup> In this program, PECO uses customer payments to purchase and retire Renewable Energy Credits ("RECs") from wind energy farms located in Pennsylvania.<sup>14</sup> This process provides funding to wind farm developers and supports the creation of additional sources of renewable energy in Pennsylvania.<sup>15</sup>

As part of the elimination of its Wind Program, PECO has proposed a one-time referral targeted mailing to the 19,353 Wind Program customers<sup>16</sup> using PECO's soon-to-be-terminated Wind Program.<sup>17</sup> That targeted mailing will include a listing of eligible EGSs that respond to a request for information issued by PECO. This referral program is intended to help PECO's Wind Program customers find green suppliers in the competitive market. If PECO's customers

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<sup>13</sup> ChoosePAWind St. No 1 at 3. PECO's product is a bundled energy and attribute product whereby the customer is monthly charge covers the cost of purchasing renewable energy credits *Id.*

<sup>14</sup> ChoosePAWind St. No. 1 at 3.

<sup>15</sup> ChoosePAWind St. No. 1 at 3.

<sup>16</sup> ChoosePAWind Exhibit JS-1 at PECO Response to GMEC-I-1.

<sup>17</sup> PECO St. No. 2-R at 23.

need more choice or information on green products, the referral mailing will inform them to go to Commission's shopping website, PA PowerSwitch (www.papowerswitch.com),<sup>18</sup> which provides information on products and suppliers.<sup>19</sup>

PECO is proposing to use a referral mailing to send information on green suppliers and products to the impacted customers.<sup>20</sup> PECO will provide the Wind Program customers with a listing of EGSs offering Tier I resources<sup>21</sup> under Pennsylvania's Alternative Energy Portfolio Standard ("AEPS") Act as part of any bundled alternative energy supply that would be eligible to participate in PECO's referral program.<sup>22</sup> PECO is not limiting its information to just suppliers.<sup>23</sup> As noted above, the referral materials will also direct the Wind Program customers to PA PowerSwitch where they can obtain additional information on available products and suppliers. So, PECO's apparent goal is to provide references to pertinent sources of information so that its Wind Program customers will be able to choose a new supplier of renewable energy before the end of 2012.

ChoosePAWind agrees that PECO's Wind Program customers should be provided with information on green products and suppliers. ChoosePAWind further agrees that a reference to

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<sup>18</sup> ChoosePAWind Exhibit JS-1 at PECO Response to GMEC-I-4(c).

<sup>19</sup> ChoosePAWind St No. 1-SR at 2.

<sup>20</sup> ChoosePAWind Exhibit JS-1 at PECO Response to GMEC-I-3(c).

<sup>21</sup> Tier I resources include solar photovoltaic and solar thermal energy, wind power, low-impact hydropower, geothermal energy, biologically derived methane gas, fuel cells, biomass energy (including generation located inside Pennsylvania from by-products of the pulping process and wood manufacturing process including bark, wood chips, sawdust and lignin in spent pulping liquors) and coal mine methane. 73 P.S. § 1648.2 (definitions).

<sup>22</sup> ChoosePAWind Exhibit JS-1 at PECO Response to GMEC-I-3(c).

<sup>23</sup> Being a registered supplier should not be a requirement for inclusion in PECO's referral mailing. ChoosePAWind St. No. 1-SR at 2. Such a requirement would be unduly restrictive of the information that could be provided to the Wind Program customers, and would preclude reference to PA PowerSwitch, which is not a registered supplier. *Id.*

PA PowerSwitch should be included in PECO's referral materials. But, ChoosePAWind disagrees with PECO's position that the proposed references to suppliers and PA PowerSwitch are sufficient to fully inform PECO's Wind Program customers about the availability of green products and the full extent of their choices for green products.

The inclusion of the ChoosePAWind website is consistent with PECO's stated objective of providing information on green products and suppliers to these customers. ChoosePAWind is a web portal, just like PA PowerSwitch, that will permit customers to receive more options if they wish to continue to buy electric energy with environmental attributes.<sup>24</sup> The green products that are listed on the website are clearly labeled along with all those licensed entities that offer to sell power or RECs to residential customers in Pennsylvania.<sup>25</sup> Neither PECO nor any other party has raised any concern about the accuracy of the information posted on the ChoosePAWind website, or suggested that any of the information is anything but straightforward and fair.<sup>26</sup> Including this reference to customers will give the customers more choices and likely will make them more comfortable with finding a new supplier of green energy products.<sup>27</sup>

Moreover, it should be noted that targeted information on renewable energy products is not easy to locate on PA PowerSwitch.<sup>28</sup> In contrast, ChoosePAWind focuses on renewable energy products, and information on these products is easier to locate on ChoosePAWind.com.<sup>29</sup> Thus, the inclusion of the ChoosePAWind website (and any other website that offers similar

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<sup>24</sup> ChoosePAWind St. No. 1-SR at 2.

<sup>25</sup> ChoosePAWind St. No. 1-SR at 2.

<sup>26</sup> ChoosePAWind St. No. 1-SR at 2-3.

<sup>27</sup> ChoosePAWind St. No. 1-SR at 3.

<sup>28</sup> ChoosePAWind St. No. 1-SR at 3.

<sup>29</sup> ChoosePAWind St. No. 1-SR at 3.

renewable products) will benefit the Wind Program customers who are looking for green energy products. If PECO's referral mailing only includes a reference to PA PowerSwitch, customers seeking additional information on renewable energy products and suppliers may experience unnecessary confusion, frustration and difficulty – because targeted information on renewable energy products is missing or not easy to locate.<sup>30</sup>

It does not make a material difference that PA PowerSwitch is maintained by the Commission. PA PowerSwitch is a resource available to customers searching for suppliers.<sup>31</sup> But, PA PowerSwitch is not responsible for the posted products or prices on its website.<sup>32</sup> In fact, PA PowerSwitch contains a disclaimer noting that the EDC or EGSs are responsible for the posted prices.<sup>33</sup> The users of that site are directed to consult with the EDC or EGS for prices, including introductory prices, cancellation policies and any other discounts.<sup>34</sup> ChoosePAWind's website is valuable resource for persons and businesses seeking information on purchasing energy from Pennsylvania wind farms.<sup>35</sup> The website encourages energy consumers in Pennsylvania to power their businesses and homes with energy from Pennsylvania wind farms, and provides them with information on green products and suppliers so that they can do so.<sup>36</sup>

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<sup>30</sup> ChoosePAWind St. No. 1-SR at 3. It would be helpful to consumers if PA PowerSwitch added more information on renewable energy products. However, even if such information were included on PA PowerSwitch, it does not necessarily mean, that reference to other renewable sources should be excluded from a mailing that it intended to inform consumers of their options.

<sup>31</sup> ChoosePAWind St. No. 1-SR at 4.

<sup>32</sup> ChoosePAWind St. No. 1-SR at 4.

<sup>33</sup> ChoosePAWind St. No. 1-SR at 4.

<sup>34</sup> ChoosePAWind St. No. 1-SR at 4.

<sup>35</sup> ChoosePAWind St. No. 1 at 6.

<sup>36</sup> ChoosePAWind St. No. 1 at 6; ChoosePAWind St. No. 1-SR at 2-3.

To the extent that PECO is concerned about “endorsing” a private organization, those concerns can be easily mitigated by adding an appropriate disclaimer in the referral materials.<sup>37</sup>

For example, the referral mailing could include a paragraph such as the following:<sup>38</sup>

The following Web resources may be helpful in finding additional information on renewable energy and renewable energy suppliers. PECO cannot endorse or validate the accuracy of the information on these sites.

ChoosePAWind	ChoosePAWind.com
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Moreover, it should be remembered that PECO is proposing to list eligible EGSs in the referral mailing. Such direct references to energy suppliers is clearly a reference to private entities.<sup>39</sup>

Referring to a private organization that includes energy suppliers should not be treated any differently.<sup>40</sup> ChoosePAWind is a private entity just as the individual EGSs are private entities.

So, PECO’s fear of endorsing a private organization is unsubstantiated by the record and conflicts with PECO’s own proposal to reference private entities.

Under these circumstances, the inclusion of references to other websites is not unreasonable, burdensome or expensive. Information on available options is critical to ensuring a smooth transition for PECO’s Wind Customers to an green EGS (or to default service). PECO has proposed to inform its Wind Customers that some green EGSs exist,<sup>41</sup> but has refused to inform them of the availability of other relevant information on green suppliers and products.

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<sup>37</sup> ChoosePAWind St. No. 1-SR at 4.

<sup>38</sup> ChoosePAWind St. No. 1-SR at 4.

<sup>39</sup> ChoosePAWind St. No. 1-SR at 4.

<sup>40</sup> ChoosePAWind St. No. 1-SR at 4.

<sup>41</sup> It should be remembered that green EGSs may not elect to participate in this referral program and may not post their green products on PA PowerSwitch. So, PECO’s referral materials will, by definition, not be fully informing these customers of all of their available options.

The inclusion of these references would give the Wind Customers the greatest amount of information and choice. Giving the Wind Customers more information and choice will work to the benefit of the Wind Customers, and is in the public interest.

The unjustified exclusion of websites offering important additional information and resources on green suppliers and products does not constitute a reasonable attempt by PECO to educate its Wind Customers regarding their options at the end of the Wind Program. Failure to reference such additional easily accessible information and resources could mislead customers to believe that their only options are presented in the PECO referral materials alone. It is foreseeable that some green EGSs may not elect to participate in this referral program and may not post their green products on PA PowerSwitch. It is, therefore, important to inform and educate the Wind Customers that other options exist beyond those in the proposed PECO referral materials. This can be reasonably accomplished by the inclusion of additional websites, with an appropriate disclaimer, that would provide additional valuable resources to the Wind Customers.

If PECO's true goal is to enable its Wind Program customers to choose a new supplier of renewable energy in a short time frame, then PECO should be willing to provide these customers with the greatest amount of information so that these customers will be able to make an informed choice.<sup>42</sup> PECO can achieve this goal by including in its mailings and postings a reference, with an appropriate disclaimer, to the website of ChoosePAWind and any other website that offers similar renewable products.<sup>43</sup>

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<sup>42</sup> ChoosePAWind St. No. 1-SR at 4-5.

<sup>43</sup> ChoosePAWind St. No. 1-SR at 5.

4. Seamless Moves

ChoosePAWind takes no position on the issues in Section IV(E)(4).

**F. Recovery of Program Costs for Proposed Retail Market Enhancements**

ChoosePAWind takes no position on the issues in Section IV(F).

**V. OTHER ISSUES**

Not applicable.

**VI. CONCLUSION**

ChoosePAWind.com respectfully requests that the Administrative Law Judge issue a Recommended Decision that directs PECO to include a reference, with an appropriate disclaimer, to the website of ChoosePAWind.com and any other private web portal or website that offers similar renewable products in the referral mailing materials and postings sent by PECO to the PECO Wind Program customers.

Respectfully submitted,



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