

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

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**REPLY BRIEF  
OF THE BUREAU OF  
INVESTIGATION AND ENFORCEMENT**

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Dated: July 3, 2012

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## **I. INTRODUCTION AND PROCEDURAL HISTORY**

The procedural history of this proceeding is detailed in the Bureau of Investigation and Enforcement's (I&E) Main Brief filed on June 18, 2012. In its Main Brief, I&E presented the evidence and law in support of its opinion that the recommendations made by the Retail Energy Supply Association ("RESA") and FirstEnergy Solutions ("FES"), regarding cost recovery for the Opt-In Offer program in this proceeding must be rejected.

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

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

I&E presented no testimony in regard to these issues.

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

### **A. Summary of Briefing Parties Position**

I&E presented no testimony in regard to these issues.

## **IV. RETAIL MARKET ENHANCEMENTS**

### **A. Summary of Briefing Parties Position**

PECO has proposed to use a discount Purchase Of Receivables ("POR") to recover the costs of implementing and maintaining its Opt-In Auction program. As discussed in the I&E Main Brief, I&E supports this position as being consistent with current Commission decisions and objects to the recommendations offered by RESA and FES.<sup>1</sup> As noted in the I&E Main Brief, FES and RESA suggest that the

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<sup>1</sup> I&E MB pp. 2-4.

cost of the Opt-In Offer Program should not be born solely by Electric Generation Suppliers (“EGS”) However, PECO’s recommendation that a discount POR be used is supported by the Commission in its recent Intermediate Work Plan Order (“IWP Order”) and should be approved.<sup>2</sup>

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

In its Main Brief, RESA acknowledges that the Commission has already indicated that, as the prime beneficiaries, the EGSs should pick up the costs associated with these types of programs.<sup>3</sup> This statement is found in the Commission’s IWP Order.<sup>4</sup> Based on this Commission directive, I&E opposes the suggestion by RESA and FES that the cost of the Opt-In and Standard Offer program be recovered from all customers through a non-bypassable surcharge.

Further, FES contends that PECO’s reliance on the Commission’s IWP Order should be given little weight since that Order’s finding that a discount POR may be considered was based on PECO’s own proposal in that particular proceeding.<sup>5</sup> This argument is clearly illogical. It makes no sense to say that because PECO came up with an idea that the Commission decided should be given consideration, PECO cannot rely on that proposal in a different proceeding. The argument made by FES seems to suggest that if, hypothetically, PPL would have suggested a discount POR in the Intermediate Work Plan proceeding and not

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2 *Investigation of Pennsylvania’s Retail Electricity Market: Intermediate Work Plan Order Entered March 1, 2012, Docket No. I-2011-2237952.*

3 RESA MB p. 91.

4 IWP Order at 78.

5 FES MB p. 38.

PECO, at that point PECO would be free to suggest a discount POR in this default service proceeding; however, PPL would not be able to suggest a discount POR in its own default service proceeding.

I&E's recommendation in this proceeding is not based on the speculative results of these programs, but rather on what the Commission has already determined is the course of action that needs to be taken; namely, that the EGSs pay the costs associated with these types of programs. As noted by PECO in its Main Brief, "RESA and FES have not demonstrated that there is good cause to deviate from the Commission's recommendation to recover the costs of the Opt-In Program from participating EGSs."<sup>6</sup>

## **V. OTHER ISSUES**

I&E did not provide testimony on any other issues in this proceeding.

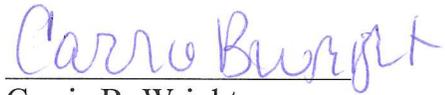
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6 PECO MB p. 73.

## VI. CONCLUSION

For the reasons stated herein, the Bureau of Investigation and Enforcement respectfully requests that that Administrative Law Judge recommend and the Commission adopt that the recovery of the costs of the Opt-In Offer Program be borne by the Electric Generation Suppliers.

Respectfully submitted,



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Petition of PECO Energy Company :  
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Default Service Program :

**CERTIFICATE OF SERVICE**

I hereby certify that I am serving the foregoing **Reply Brief** dated July 3, 2012,  
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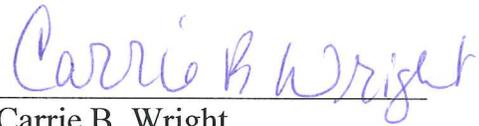
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