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July 3, 2012

VIA ELECTRONIC FILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
P.O. Box 3265
Harrisburg, PA 17105-3265

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

Dear Secretary Chiavetta:

Enclosed on behalf of Noble Americas Energy Solutions LLC ("Noble") please find its Reply Brief in the above-captioned matter. Copies of the Reply Brief are being served upon the persons and in the manner set forth on the attached certificate of service. Should you have any questions, please do not hesitate to contact me.

Very truly yours,

THOMAS, LONG, NIESEN & KENNARD

By

Charles E. Thomas, III

Encl.
cc: Honorable Dennis J. Buckley (w/encl.)
Certificate of Service (w/encl.)
Becky Merola (w/encl.)

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PETITION OF PECO ENERGY COMPANY FOR APPROVAL OF ITS DEFAULT SERVICE PROGRAM	: : :	**DOCKET NO. P-2012-2283641**

REPLY BRIEF
OF
NOBLE AMERICAS ENERGY SOLUTIONS LLC

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Counsel for
Noble Americas Energy Solutions LLC

DATED: July 3, 2012

I. INTRODUCTION

Noble Americas Energy Solutions LLC ("Noble") hereby submits this Reply Brief in response to positions taken and arguments presented by various parties with respect to Issue IV.B.1., Customer Eligibility related to PECO Energy Company's ("PECO") Opt-In Competitive Offer Program, and Issue IV.F., Recovery of Program Costs for Proposed Retail Market Enhancements, and limits its Reply Brief accordingly. Noble takes no position with respect to the other issues presented in this proceeding.

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IV. RETAIL MARKET ENHANCEMENTS

B. EGS Opt-In Competitive Offer Program

1. Customer Eligibility

Noble supports PECO's proposed customer eligibility rules for its Opt-In Competitive Offer Program in accordance with the Commission's guidance in the *Interim Work Plan Order* that eligibility in opt-in programs should be limited to residential customers at this time.[1] If, however, a commercial customer opt-in auction is arranged and/or eligibility in retail enhancement programs are extended to include commercial customers (regardless of size), as suggested by some intervenors, Noble submits that utilization of the electric distribution company's purchase of receivables ("POR") should not be a prerequisite for determining whether an electric generation supplier ("EGS") may participate in these programs. In other words, EGSs like Noble, who use dual billing exclusively for its customers, and have invested substantial resources and time in implementing its own billing system should not be discriminated against from participating simply because they use dual billing instead

[1] PECO M.B. at 52; *Investigation of Pennsylvania's Retail Electricity Market: Intermediate Work Plan*, Docket No. I-2011-2237952 (Order entered March 2, 2011), slip op. at 42.

consolidated billing through a POR program. The programs must remain impartial and open to all EGSs, with the understanding that cost recovery should only be assessed on those who ultimately participate.

* * *

F. Recovery of Program Costs for Proposed Retail Market Enhancements

PECO proposes to recover the costs of its retail market enhancement programs, such as the Opt-In Competitive Offer Program and Standard Offer Program, from the EGSs that benefit from those programs.[2] In the case of the Opt-In Program, costs would be recovered from the winning EGSs in proportion to the number of customers allocated to each EGS. Where the RFP process does not result in any winning EGSs, recovery would be achieved through a 0.3% POR discount.[3] Under the Standard Offer Program, PECO proposes to recover costs through the 0.3% POR discount.[4]

Several parties, including the Retail Energy Supply Association ("RESA"), oppose PECO's proposal. RESA proposes the utilization of a new default service rate – *i.e.*, the Default Service Cost Recovery Charge – as a means of recovering the costs of these retail market enhancement programs. Alternatively, RESA recommends that these costs be paid by all customers through a "competitively neutral, non-bypassable charge assessed on all customers."[5]

While Noble takes no position at this time regarding the merits of PECO's specific proposal for the recovery of retail market enhancement costs as the proposal pertains solely to residential customers, Noble recommends that the costs associated with the Opt-In Program and

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[2] PECO M.B. at 72.
[3] PECO M.B. at 72-73.
[4] PECO M.B. at 75.
[5] RESA M.B. at 90-91.

Standard Offer Program should be recovered only from those that participate and benefit from the programs. In fact, this would be the only way to keep the programs "competitively neutral."

Regardless of the cost recovery mechanism employed, it is imperative that the mechanism is implemented in a manner that ensures non-participating EGSs and their customers are not required to pay any costs of the Opt-In Program or the Standard Offer Program. The recovery mechanism must not reward participating EGSs to the detriment of non-participating EGSs. To this end, the RESA proposals should be rejected, as those mechanisms would permit participating EGSs to essentially subsidize the costs related to their customer acquisition efforts, thereby creating an unlevel and biased marketplace.

Respectfully submitted,

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Dated: July 3, 2012

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

CERTIFICATE OF SERVICE

I hereby certify that I have this 3rd day of July, 2012, served a true and correct copy of the foregoing Reply Brief upon the persons and in the manner set forth below:

Electronic Mail and First Class Mail, Postage Prepaid

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