

**ECKERT
SEAMANS**
ATTORNEYS AT LAW

Eckert Seamans Cherin & Mellott, LLC
213 Market Street
8th Floor
Harrisburg, PA 17101

TEL 717 237 6000
FAX 717 237 6019
www.eckertseamans.com

Jeffrey J. Norton
717.237.7192
215.523.781
jnorton@eckertseamans.com

September 7, 2012

VIA ELECTRONIC FILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Bldg., 2nd Fl.
400 North Street
Harrisburg, PA 17105-3265

RE: Petition of PECO Energy Company's For an Evidentiary Hearing on the
Energy Efficiency Benchmarks Established for the Period June 1, 2013
through May 31, 2016; Docket No. P-2012-2320334

Dear Secretary Chiavetta:

In accordance with the August 29, 2012 Prehearing Conference Order, enclosed for electronic filing is Comverge, Inc.'s Prehearing Memorandum in the above-referenced matter. Copies have been served in accordance with the attached Certificate of Service.

Very truly yours,



Jeffrey J. Norton

JJN/jls
Enclosure

cc: Certificate of Service (w/enc)

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served upon the following persons, in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

VIA EMAIL AND/OR FIRST CLASS MAIL

Johnnie E. Simms, Esq.
Bureau of Investigation and Enforcement
PA PUC
Keystone Building
400 North Street, 2nd Fl., West
P.O. Box 3265
Harrisburg, PA 17105-3265
josimms@pa.gov

Shaun A. Sparks, Esq.
Kriss Brown, Esq.
Krystle J. Sacavage, Esq.
PA PUC - Law Bureau
P.O. Box 3265
Harrisburg, PA 17105-3265
shsparks@pa.gov
kribrown@pa.gov
ksacavage@pa.gov

Tisheka Williams, Esq.
Duquesne Light Company
411 Seventh Ave., 16th Fl
Pittsburgh, PA 15219
twilliams@duqlight.com

Anthony C. Decusatis, Esq.
Thomas P. Gadsden, Esq.
Morgan Lewis & Bockius LLP
1701 Market Street
Philadelphia, PA 19103-2921
adecusatis@morganlewis.com
tgadsden@morganlewis.com

Heather M. Langeland, Esq.
PennFuture
Suite 2770
425 Sixth Ave.
Pittsburgh, PA 15219
langeland@pennfuture.org

Anthony E. Gay, Esq.
Jack R. Garfinkle, Esq.
PECO Energy Company
2301 Market Street
P.O. Box 8699
Philadelphia, PA 19101
Anthony.gay@exeloncorp.com
Jack.garfinkle@exeloncorp.com

Harry S. Geller, Esquire
Patrick M. Cicero, Esquire
Pennsylvania Utility Law Project
118 Locust Street
Harrisburg, PA 17101-1414
pulp@palegalaid.net

Zachary M. Fabish, Esquire
Sierra Club
50 F. Street, NW, 8th Floor
Washington, DC 20001
Zachary.fabish@sierraclub.org

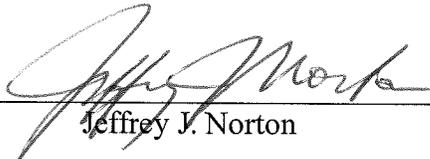
Hon. Elizabeth Barnes
Administrative Law Judge
PA Public Utility Commission
400 North Street, 2nd Fl.
Harrisburg, PA 17105-3265
ebarnes@pa.gov

Joseph Otis Minott, Esquire
Clean Air Council
135 S. 19th Street, Suite 300
Philadelphia, PA 19103
Joe_minott@cleanair.org

Jennedy S. Johnson, Esquire
Office of Consumer Advocate
555 Walnut Street
Forum Place, 5th Floor
Harrisburg, PA 17101-1923
jjohnson@paoca.org

Charis Mincavage, Esq.
McNees Wallace & Nurick LLC
100 Pine Street
P.O. Box 116
Harrisburg, PA 17108-1166
cmincavage@mwn.com

Date: September 7, 2012



Jeffrey J. Norton

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of PECO Energy for an :
Evidentiary Hearing on the Energy : Docket No. P-2012-2320334
Efficiency Benchmarks Established for :
the Period June 1, 2013 through May 31, :
2016 :

**PREHEARING MEMORANDUM
OF COMVERGE, INC.**

Pursuant to Section 333 of the Public Utility code, 66 Pa.C.S. § 333, and in response to Prehearing Conference Order dated August 29, 2012 in this matter and, subject to the granting of the Petition to Intervene filed by Comverge, Inc. (“Comverge”), Comverge submits this Prehearing Memorandum.

I. INTRODUCTION AND BACKGROUND

On March 1, 2012, the Pennsylvania Public Utility Commission (“PUC” or “Commission”) requested comments on its ongoing efforts to implement the requirements of Pennsylvania’s Act 129 of 2008 (the Act of Act 129, effective November 12, 2008), 66 Pa.C.S. §§ 2806.1 and 2806.2. On March 16, 2012, the Commission conducted a stakeholder meeting to identify additional issues raised by its request for comments. On May 11, 2012, the Commission entered a Tentative Implementation Order seeking comments on proposed consumption reductions, guidelines for implementing Phase II of the Energy Efficiency and Conservation (EE&C) Program, and released the Statewide Evaluator’s (SWE) Market Potential Study. On June 5, 2012, the Commission held a stakeholder meeting to discuss the SWE, the baseline studies and the Market Potential Study. On August 3, 2012, the Commission entered its Implementation Order regarding the *Energy Efficiency and Conservation Program*. The

Commission established energy efficiency benchmarks for the period June 1, 2013 through May 31, 2016 (“Phase II period”). The Commission recognized the due process concerns raised by the parties and now provided the instant proceeding for interested parties. Comverge has filed an intervention in this proceeding and is awaiting Commission approval.

II. REPRESENTATION

Comverge’s attorneys in this matter are:

Jeffrey J. Norton, Esquire
Carl R. Shultz, Esquire
Eckert Seamans Cherin & Mellott, LLC
213 Market St., 8th Floor
P.O. Box 1248
Harrisburg, PA 17101
717.237.6000
Fax 717.237.6019
jnorton@eckertseamans.com
cshultz@eckertseamans.com

III. PRESENTLY IDENTIFIED ISSUES

Comverge is a leading provider of Demand Response (“DR”) products and services to various customers. Comverge has been an active Conservation Service Provider (“CSP”) and provides complex energy management programs and related services to electric distribution companies (“EDCs”), residential and small business, large commercial and industrial customers throughout Pennsylvania, including PECO’s service territory.

Comverge has identified the following issues that should be examined in this proceeding:

- Whether the consumer-focused load management programs will suffer harmful and disruptive breaks in service if the Act 129 Programs are not continued or are interrupted.

- Whether the continuation of load management programs will provide stability in reliability planning, capture significant benefits, and avoid waste.
- Whether the targets set for PECO will materially impact the energy efficiency and conservation programs, the load management product and service development and the allocation of funds for load management programs in the service territory.

IV. WITNESSES

At this time, Comverge is still evaluating whether or not to present testimony in this matter. Comverge reserves the right to present a witness as may be necessary depending on the course of the proceeding and will provide the Presiding Officer as well as the other parties in this matter reasonable notice if necessary. Comverge also reserves its right to add additional witnesses or change the identity of its witnesses at any time upon appropriate notice to the Presiding Officer and the parties.

V. LITIGATION SCHEDULE AND DISCOVERY RULES

Comverge is amenable to working with the other parties in this matter to adopt a reasonable litigation schedule and/or necessary modifications to the Commission's discovery rules.

VI. SETTLEMENT

Comverge is willing to participate in settlement discussions with any party to narrow the issues in this matter.

Respectfully submitted,



Jeffrey J. Norton, Esquire

Attorney ID 39241

Carl R. Shultz, Esquire

Attorney ID 70328

Eckert Seamans Cherin & Mellott, LLC

213 Market St., 8th Floor

Harrisburg, PA 17101

Phn 717.237.6000

Fax 717.237.6019

Date: September 7, 2012

Attorneys for Comverge, Inc.