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September 17, 2012

Rosemary Chiavetta, Secretary
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400 North Street, 2nd Floor North
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RE: Petition of PECO Energy Company for Approval of Its Default Service Program
Docket No. P-2012-2283641

Dear Secretary Chiavetta:

Enclosed are the Reply Exceptions of PPL EnergyPlus, LLC for the above-referenced proceeding.

Copies have been provided to the persons in the manner indicated on the Certificate of Service.

Respectfully Submitted,



Andrew S. Tubbs

AST/jl

Enclosures

cc: Honorable Dennis J. Buckley
Certificate of Service

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **Reply Exceptions** 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).

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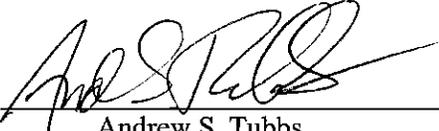
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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

**REPLY EXCEPTIONS OF
PPL ENERGYPLUS, LLC**

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TABLE OF CONTENTS

	<u>Page</u>
I. INTRODUCTION AND BACKGROUND	1
II. PPL ENERGYPLUS' REPLIES TO EXCEPTIONS	2
1. Allow a one-year transition period for Small Commercial, Medium Commercial (together, "Commercial") and Large Commercial and Industrial ("Large C&I") customers with EGS contracts under which they are receiving service on June 1, 2013, the first day of the DSP's term (herein referred to as "Existing EGS Contracts"), as proposed by the Office of Small Business Advocates ("OSBA") in the instant proceeding, and as presented in the August 2, 2012 Dissenting Statement of Commissioner Gardner ("Gardner Dissent") in the FirstEnergy-PA DSP case.	2
2. Carve Large C&I customers with existing EGS contracts out and approve the Generation Deactivation Cost Recovery Proposal for all other customers, including all Large C&I customers without Existing EGS contracts as of June 1, 2013.	4
3. Allow PECO to collect Generation Deactivation Charges only for default service customers, and not for shopping customers, via the mechanism PECO currently utilizes under its Transmission Service Charge Rider ("TSC Rider") to collect other non-market based PJM charges, like Network Integration Transmission Service ("NITS") and Regional Transmission Expansion Plan ("RTEP") charges.	5
III. CONCLUSION.....	8

I. INTRODUCTION AND BACKGROUND

On January 13, 2012, PECO Energy Company (“PECO”) filed a Petition for Approval of its Default Service Program (“DSP Petition”). In its DSP Petition, PECO proposes to establish the terms and conditions under which PECO will procure default service supply, provide default service to non-shopping customers, and recover all costs on a full and current basis for the period from June 1, 2013 through May 31, 2015.

In this proceeding PPL EnergyPlus proposes that PECO be required to recover, through a non-bypassable rider, certain non-market based (“NMB”) transmission costs that are administratively set by PJM Interconnection, LLC (“PJM”). In particular, PPL EnergyPlus requests that PECO assume responsibility for the Generation Deactivation Charge imposed by PJM. As explained by PPL EnergyPlus, requiring PECO, as the default service provider, to recover administratively set transmission-related charges to address transmission system reliability problems caused by generation unit deactivation is appropriate. Moreover, as these charges are unknown and cannot be predicted or hedged by electric generation suppliers (“EGSs”), the recovery of these charges through a competitively neutral NMB Rider would improve the competitive wholesale and retail market in the PECO service territory by reducing the risk and uncertainty associated with these charges for suppliers. Namely, as proposed by PPL EnergyPlus, the NMB Rider would allow wholesale suppliers and EGSs to avoid placing unnecessary charges or unnecessary premiums on customers and eliminate an area that currently results in customer confusion.

As PPL EnergyPlus limited its participation in this proceeding to advocacy of the NMB Rider for PJM Generation Deactivation Charges, PPL EnergyPlus did not take issue with the majority of the RD, however it did file exceptions with regard to the portion of the RD which

rejected PPL EnergyPlus' proposal to shift responsibility for the recovery of generation deactivation and other PJM charges from EGSs to PECO. RD at 47.

Exceptions in this proceeding were filed by a number of parties, including Constellation Energy Commodities Group, Inc. and Constellation NewEnergy, Inc. ("Constellation"), Exelon Generation Company, LLC and Exelon Energy Company ("Exelon"), and NextEra Energy Services Pennsylvania, LLC and NextEra Energy Power Marketing, LLC ("NextEra") (collectively the "Joint Suppliers Group"). PPL EnergyPlus' reply exceptions are limited to responding to Exception No. 1 from the Joint Suppliers Group.

II. PPL ENERGYPLUS' REPLIES TO EXCEPTIONS

The Joint Suppliers Group filed a single exception to the RD wherein they request that the Commission reject the RD's recommendation to deny PPL EnergyPlus' proposal that PECO assume responsibility for the Generation Deactivation Charges imposed by PJM through a competitively neutral NMB Rider. In addition, the Joint Suppliers Group proposes three alternatives for the Commission's consideration. PPL EnergyPlus responds to each of the alternatives proposed by the Joint Suppliers Group below:

- 1. Allow a one-year transition period for Small Commercial, Medium Commercial (together, "Commercial") and Large Commercial and Industrial ("Large C&I") customers with EGS contracts under which they are receiving service on June 1, 2013, the first day of the DSP's term (herein referred to as "Existing EGS Contracts"), as proposed by the Office of Small Business Advocates ("OSBA") in the instant proceeding, and as presented in the August 2, 2012 Dissenting Statement of Commissioner Gardner ("Gardner Dissent") in the FirstEnergy-PA DSP case.**

Consistent with its filed Exception, PPL EnergyPlus maintains that the Commission should adopt its proposal that PECO assume collection responsibility for the recovery of PJM Generation Deactivation Charges associated with both shopping and non-shopping transmission and reliability based costs. PPL EnergyPlus Exceptions, p. 3. Shifting the responsibility for

collecting these administratively set transmission-related charges would improve the competitive wholesale and retail market in the PECO service territory by reducing the risk and uncertainty associated with these charges for suppliers. *Id.* Further, PPL EnergyPlus has presented evidence in this proceeding demonstrating that Generation Deactivation charges in the PECO zone were expected to end by May 2012. PPL EnergyPlus Statement No. 1-SR at 7; See LGA Exhibit 1. Therefore, as of May 2012 there is no imminent need for PECO or EGSs to collect additional PJM Generation Deactivation Charges from their retail customers. Thus, the current level of Generation Deactivation Charges is *de minimus*. The current state of these charges in PECO's service territory falls squarely within the situation where the OSBA did not recommend a delay. Therefore, the implementation of an approved NMB rider should logically occur on June 1, 2013 as proposed by PPL EnergyPlus.

PPL EnergyPlus believes strongly that NMB costs and/or administratively set costs that cannot be hedged or predicted should not be the responsibility of wholesale and retail suppliers. These costs add unnecessary premiums to electricity prices and result in customer confusion on product components and dissatisfaction with retail energy markets. One of the objectives of PECO's DSP II proceeding must be to improve the functioning of the wholesale and retail markets by improving transparency of supply and simplicity for customers and market participants.

PPL EnergyPlus continues to maintain that the NMB rider should occur on June 1, 2013 as supported by the record evidence in this proceeding. However, in the interest of improving the market in the PECO service territory, a one-year transition period for Small Commercial, Medium Commercial (together, "Commercial") and Large Commercial and Industrial ("Large C&I") customers is acceptable to PPL EnergyPlus.

2. Carve Large C&I customers with Existing EGS contracts out and approve the Generation Deactivation Cost Recovery Proposal for all other customers, including all Large C&I customers without Existing EGS contracts as of June 1, 2013.

The Joint Suppliers Group has proposed in Exception No. 1(2) that the Commission carve out Large C&I customers with existing EGS contracts that extend into PECO's DSP II, and approve the recovery by PECO of Generation Deactivation Charges for all other customers.

Again, PPL EnergyPlus believes strongly that Generation Deactivation Charges are administratively set costs which cannot be hedged or predicted and should not be the responsibility of wholesale and retail suppliers. These costs add unnecessary premiums to consumer electricity prices and result in customer confusion on product components and dissatisfaction with retail energy markets. The fact that some customers have entered into contracts that extend beyond PECO's current default service plan is not a reason to reject the NMB Rider for PECO's DSP II. Indeed, the fact that some sophisticated industrial and commercial customers entered into contracts extending into DSP II should not be the impediment to adopting an otherwise sound policy position on recovery of NMB charges.

To the extent that a customer's existing contract with an EGS provides for a pass-through of transmission charges, beginning on June 1, 2013 the customer's EGS would simply cease charging the customer for PJM Generation Deactivation charges. That is, once PECO assumes responsibility for the recovery of all Generation Deactivation charges, the EGS would simply zero out this charge on the customer's bill. 1-SR, p. 6.

Where a customer has entered into an "all-in" fixed-price contract with an EGS, the customer and the EGS could re-negotiate the terms of their agreement to address the impact of the NMB Rider on the period remaining on their contract, or the supplier could credit the customer's invoice for the Generation Deactivation charges. *Id.* There is ample time for these

discussions to occur and for EGSs and their customers to resolve these issues. Moreover, as strong customer relations are crucial to EGSs, if the NMB Rider is approved, it is in the best interest of EGSs to work closely with PECO and their customers to ensure a smooth transition to the NMB Rider. PPL EnergyPlus has provided evidence in this proceeding which shows that approval of the NMB Rider is highly unlikely to result in a double-collection.

Therefore, PPL EnergyPlus restates that in the PECO service territory the NMB rider should occur on June 1, 2013 for the reasons stated herein. However, in the interest of improving the market in the PECO service territory, PPL EnergyPlus is not opposed to carving out Large C&I customers with existing EGS Contracts and approving the Generation Deactivation cost recovery proposal for all other customers, including all Large C&I customers without Existing EGS Contracts as of June 1, 2013.

3. **Allow PECO to collect Generation Deactivation Charges only for default service customers, and not for shopping customers, via the mechanism PECO currently utilizes under its Transmission Service Charge Rider (“TSC Rider”) to collect other non-market based PJM charges, like Network Integration Transmission Service (“NITS”) and Regional Transmission Expansion Plan (“RTEP”) charges.**

The Joint Suppliers Group’s Exception No. 1(3) is procedurally incorrect and would fail to address the competitive obstacle posed by PJM Generation Deactivation Charges to retail EGSs in Pennsylvania. Therefore, the Joint Suppliers Group’s Exception No. 1(3) should be rejected.

PPL EnergyPlus has maintained throughout this proceeding that it is appropriate to establish the NMB Rider to allow for PECO to assume collection responsibility for all PJM Generation Deactivation Charges in its service territory. As the PJM Generation Deactivation Charges are administratively set, non-market based transmission related costs, PPL EnergyPlus proposed that PECO assume collection responsibility of the costs for both shopping and non-

shopping customers. This would relieve both wholesale and retail suppliers from attempting to address these potentially substantial, unknown, non-markets based transmission-related charges, which cannot be predicted or hedged in their wholesale and retail offers.¹

However, the Joint Suppliers Group is now suggesting that the Commission address only one part of the problem identified by PPL EnergyPlus in this proceeding. This proposal would serve to address the problems of wholesale suppliers but completely ignores the significant business impact these charges have on retail suppliers. Indeed, the Joint Suppliers Group's proposal would further exacerbate the impact on EGSs in Pennsylvania to the detriment of the competitive retail electric markets. Moreover, as supported by PPL EnergyPlus in this proceeding, PJM Generation Deactivation Charges are not market-based but instead are administratively set transmission-related charges to address transmission system reliability problems caused by generation unit deactivation. These charges are unknown and cannot be predicted. As supported by the uncontested record evidence in this proceeding, PJM Generation Deactivation Charges are potentially significant, and there is a real potential for additional PJM Generation Deactivation Charges in the future. PPL EnergyPlus St. No. 1, p. 4.

The Joint Suppliers Group's Exception 1(3) contains a proposal that was not previously raised in this proceeding, and was presented for the first time in exceptions. It is well-settled that the Commission will not consider arguments raised for the first time in exceptions. *See, e.g., Application of West Penn Power Company for Approval of Restructuring Plan Under Section 2806 of the Public Utility Code*, Docket No. R-00973981, 1998 Pa. PUC LEXIS 168 (May 29,

¹ Indeed, the record evidence in this proceeding demonstrates that the potential for significant Generation Deactivation charges is a real concern for market participants in Pennsylvania. Currently PJM is analyzing the potential reliability impact of at least 8,000 MW of announced deactivations. PPL EnergyPlus Statement No. 1, p. 4. In addition, the rapid development of abundant and inexpensive domestic natural gas resources, such as Marcellus Shale natural gas, has resulted in the market price of natural gas reaching record lows. It is anticipated that the development of the natural gas market, together with pending environmental regulations, will accelerate the retirement of older, inefficient generating units. *Id.*

1998) (granting OCA's Motion to Strike extra-record evidence raised in Exceptions); *Manu, et al. v. AT&T Communications of Pennsylvania, Inc., et al.*, Docket Nos. F-09029141, *et al.*, 1994 Pa. PUC LEXIS 25 (May 4, 1994) (refusing to consider allegations raised for the first time in exceptions on the basis of due process considerations); *Pa. P.U.C. v. Duquesne Light Company*, Docket Nos. R-860378, *et al.*, 1987 Pa. PUC LEXIS 342; 63 Pa. PUC 337 (March 10, 1987) (declining to entertain challenges raised for the first time in exceptions).

The evidence presented by PPL EnergyPlus in this proceeding has shown that creating a competitively neutral mechanism to collect the Generation Deactivation Charges is beneficial to wholesale and retail competition, because it creates pricing transparency and reduces EGS risk and customer confusion. PPL EnergyPlus St. No. 1, p. 5. Implementation of this mechanism would eliminate the need for EGSs to include risk premiums in their fixed price offers. Approval of PPL EnergyPlus' proposal would address the Generation Deactivation Charges for all customers, and therefore would also remove these non-market based costs from wholesale default service bids. PECO would recover the charges via a competitively neutral non-bypassable rider applied to all PECO customers.

The proposal by the Joint Suppliers Group is logically inconsistent with the record evidence presented by PPL EnergyPlus. Whereas PPL EnergyPlus' proposal would apply to all customers, and therefore level the competitive playing field by reducing the uncertainty associated with supplying all customers, the proposal by the Joint Suppliers Group would create a disparate impact on shopping customers. The logical conclusion of the impact of this proposal, based on the evidence presented by PPL EnergyPlus, is that the reduced uncertainty would result in lower prices for those customers who had the Generation Deactivation Charge collected by PECO, while the price for those customers who did not would stay the same or be higher,

depending on the risk assessment performed by the individual EGSs. This result is clearly detrimental to the competitive market, because it disadvantages EGSs and, as a result, shopping customers.

Exception No. 1(3) is both procedurally inappropriate and harmful to competition. Therefore, the Joint Suppliers Group's Exception No. 1(3) should be rejected by the Commission.

III. CONCLUSION

WHEREFORE, for the foregoing reasons, PPL EnergyPlus respectfully requests that the Commission approve PPL EnergyPlus' proposal and reject the Exceptions of the Joint Suppliers Group, or in the alternative approve either Exception 1(1) or 1(2) of the Joint Suppliers Group while rejecting Exception 1(3).

Respectfully submitted,



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