

COMMONWEALTH OF PENNSYLVANIA



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November 28, 2012

Rosemary Chiavetta
Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

RE: PECO Energy Company Universal Service
and Energy Conservation Plan for 2012-
2015 Submitted in Compliance with 52 Pa.
Code §§ 54.74 and 62.4
Docket No. M-2012-2290911

Dear Secretary Chiavetta:

Enclosed please find the Office of Consumer Advocate's Comments, in the
above-referenced proceeding.

Copies have been served upon all parties of record as shown on the attached
Certificate of Service.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Christy M. Appleby".

Christy M. Appleby
Assistant Consumer Advocate
PA Attorney I.D. # 85824

Enclosures

cc: Grace McGovern, BCS (e-mail)
Louise Fink-Smith, Law Bureau (e-mail)
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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PECO Energy Company Universal Service :
And Energy Conservation Plan For 2013-2015 : Docket No. M-2012-2290911
Submitted in Compliance with 52 Pa. :
Code §§ 54.74 and 62.4 :

COMMENTS
OF THE
OFFICE OF CONSUMER ADVOCATE

The Office of Consumer Advocate (OCA) files these Comments pursuant to the Pennsylvania Public Utility Commission's (Commission) directive in the Tentative Order entered on November 8, 2012 at the above-referenced docket.¹

I. Introduction

On February 28, 2012, PECO Energy Company (PECO or the Company) filed the above-captioned Universal Service and Energy Conservation Plan (USECP or Plan) in accordance with the Commission's regulations at 52 Pa. Code §§ 54.71-54.78, relating to electric universal service and energy conservation requirements and at 52 Pa. Code §§ 62.1-62.8, relating to natural gas universal service and energy conservation requirements. Subsequently, on October 25, 2012, PECO filed an Amended USEP.

On October 12, 2012, PECO also separately filed Supplement No. 55 to Tariff Electric-Pa. P.U.C. No. 4 Effective January 1, 2013 Updating CAP Discount Rates And Maximum Discounts Provided Under Terms of the Settlement at Docket No. R-2010-2161575 (Section

¹ The OCA was assisted in the preparation of these Comments by its consultant, Roger D. Colton. Roger Colton is a principal in the firm of Fisher Sheehan & Colton, Public Finance and General Economics. Mr. Colton provides technical assistance to a variety of public utilities, state agencies and consumer organizations on rate and customer service issues for telephone, water/sewer, natural gas and electric utilities. Mr. Colton's work focuses on low-income energy issues, and he has testified and published extensively in this area.

D/Statement I) and Tariff Electric-Universal Service Fund Charge- Section 1307 Final Annual Rate Adjustment for 2012. These two filings are currently pending before the Commission. In Supplement No. 55, PECO proposes to increase the kWh usage subject to discount for a residential heating (RH) Customer Assistance Program (CAP) customer.²

Additionally, the Commission in the Petition of PECO Energy Company for Approval of its Default Service Program II (DSP II) proceeding has ordered PECO to work with the Office of Competitive Market Oversight (OCMO) to develop a plan to allow CAP customers to purchase their generation supply from Electric Generation Suppliers (EGSs) by January 1, 2014. DSP II Order, Docket No. P-20122283641, at Ordering ¶ 18 (Order entered October 12, 2012). On October 31, 2012, PECO also filed its APPRISE six year evaluation in compliance with 52 Pa. Code § 54.76.

Each of these filings could have a significant impact on the current structure of PECO's universal service program and the costs for those programs. PECO's USECP has already evolved greatly since it was first developed as a pilot program in 1984. The original structure of the small pilot CAP was a Percentage of Income Payment Program (PIPP). Tentative Order at 4. In 1996, the program changed to a CAP Rate design. Id. at 4.

In 2000, PECO merged with the Unicom Corporation and one of the provisions of the merger settlement expanded the CAP participation target from 100,000 to 125,000 customers. Application of PECO Energy Company Pursuant to Chapters 11, 19, 21, 22 and 28 of the Public Utility Code for Approval of (1) A Plan of Corporate Restructuring Including the Creation of a Holding Company and (2) the Merger of the Newly Formed Holding Company and Unicom

² The OCA notes that the RH rate for PECO customers is being raised to full default service pricing by January 1, 2013. PECO's proposed change is designed to address this issue for PECO CAP customers served under Rate RH.

Corporation, Docket No. A-00110550F0147, at ¶ 5 (Order entered June 22, 2000). Since then, the CAP program has been modified to address affordability issues and has grown to a program of approximately 140,440 customers as of March 31, 2012 -- the largest in Pennsylvania. See, Tentative Order at 28; PECO USECP for 2001-2003, Docket No. M-0001418 (Order entered September 29, 2000); PECO Petition for Expedited Approval of Consensus Modifications to PECO's USECP for 2001-2003 and Associated Tariff Changes (Petition for Expedited Approval), Docket Nos. R-00027870 and M-0001418 (Order entered April 8, 2003).

Some of the modifications approved over the past years addressed: (1) "special needs customers"; (2) additional CAP Rate tiers; (3) cost recovery for the universal service program; (4) increases to the base monthly usage levels; (5) a pro rata arrearage forgiveness process; (6) a requirement to hire a third-party evaluator to assess the system and work with stakeholders; (7) a requirement to address, the recertification process, the application process, and space heaters; (8) maximum CAP credits; (9) affordability issues; (10) adoption of a maximum CAP benefit cost control; (11) implementation of a usage tracking system; and (12) increases to the annual expenditures for its weatherization programs. Tentative Order at 6; DSP I Settlement at 22, 25-27.

The Tentative Order requested Comments on a large number of important and inter-related issues including the following: (1) whether the CAP Rate program should be changed to a Percentage of Income Payment Program (PIPP), including the affordability issues raised and the costs and benefits of such a program design; (2) how the distribution of the Low Income Home Energy Assistance Program (LIHEAP) grant fits with the PECO CAP Rate Program and its impact on the net energy burdens of the customer; (3) the viability of the "in-program" arrearage forgiveness program and deferred payment arrangement process; (4) the viability of PECO's

assignment of customers to appropriate CAP Rate tiers, including CAP Rate A; (5) the extent to which, if at all, PECO should retain or modify its one-year arrearage forgiveness program; (6) the extent to which PECO should continue its “automatic enrollment” of LIHEAP recipients into the CAP Rate and whether, if so, the extent to which PECO should modify its consumer education program, including the costs, benefits and risks to consumers of the automatic enrollment program; (7) the need for and operation of PECO’s CAP Rate provision that customers be required to provide Social Security numbers; (8) the need for and operation of PECO’s CAP Rate provisions regarding the proof of zero dollar incomes; (9) the viability of PECO’s use of a population average CAP Rate credit ceiling; (10) the viability and implementation of PECO’s CAP Rate referrals to the Low Income Usage Reduction Program (LIURP); (11) the impact that switching to a PIPP will have on CAP customers’ ability to shop; and (12) the need for additional cost control measures for PECO’s affordability program.

The resolution of these issues could raise extensive potential changes to the CAP program with significant potential cost implications for both low-income and non-low-income residential customers who pay the costs of the universal service programs. As discussed above, the current CAP Rate program has evolved over the course of the last two decades through extensive collaborative discussions, settlements and Commission Orders. The OCA submits that it is challenging to address the full scope of these issues without the benefit of significant informal or formal discovery and without the benefit of discussion with the interested stakeholders. Without the important information about the potential cost and programmatic implications, the OCA submits that it is also difficult to provide recommendations regarding several aspects of the Plan, including whether a PIPP should be implemented in place of the CAP Rate Program in the 20 days provided to respond to the Tentative Order.

The OCA will attempt to provide preliminary Comments on each of the issues identified in the Commission's Tentative Order. As discussed in more detail below, the OCA has identified additional questions that will need to be addressed on many of these issues. The OCA would also note the value of a collaborative process to begin to address these issues. Past collaborative discussions with the stakeholders have been very successful, and the OCA would support such an approach in this case. The OCA submits that the opportunity for litigation should be reserved in the event that the stakeholders are not able to reach agreement on any of the issues.

II. Comments

A. Whether the CAP Rate Program Should Be Changed to a PIPP, Including the Affordability Issues Raised and the Costs and Benefits of Such a Program Design.

1. Affordability

The Tentative Order requested Comments regarding whether PECO should change from the current CAP Rate Tier Discount structure to a Percentage of Income Payment Plan (PIPP) design, including an evaluation of the costs and benefits of each program structure to CAP customers and non-CAP residential customers and how the program design will impact retail choice. Tentative Order at 17. The Commission has identified affordability concerns regarding the current CAP Rate program structure, and has questioned whether that structure is appropriately targeting the affordability needs of those customers who are most in need of assistance. The OCA does not have sufficient information at this time to determine whether a PIPP would be more appropriate or whether the implementation of a PIPP at this time would be feasible. The OCA agrees that the Commission has identified important affordability concerns with the current CAP Rate tiered structure that require further investigation.

Under the CAP Rate program, rate discounts are set such that, at expected consumption and income levels, the effect is to achieve an affordable percentage of income burden for 88% of participating customers. Pa. P.U.C. v. PECO Energy Company-Electric Division (2010 Base Rate Proceeding), Docket No. R-2010-2161575, Settlement at 7 (Order entered December 21, 20120). The APPRISE Evaluation found that under this approach of using expected income levels and usage, for 2011, 30% of CAP Rate participants did not achieve a home energy burden that was within the Commission's affordability guidelines. APPRISE Evaluation at 99. The APPRISE Evaluation did find that the proportion of CAP customers not receiving an affordable bill improved, from 44% in 2004 to 30% in 2011, with the more recent 2010 changes to the CAP Rate Tier structure. Id.

Historically, this highlights the concern with a Tiered Rate Discount (TRD), or CAP Rate discount. Under the TRD, by design, some customers receive too little assistance, because either their consumption is higher than average or their income is lower than average, while other customers will receive more assistance than needed to achieve the affordability goal for the converse reasons. While this problem exists in a CAP Rate program, there are other benefits, such as lower administration and operation costs that must also be considered. Additionally, by using a larger number of tiers with narrower ranges, some of this impact can be mitigated.

The OCA submits that it is not possible without the benefit of discovery regarding PECO's CAP Rate customers to ascertain precisely how, if at all, the CAP Rate structure could be modified to better target benefits or whether moving to a PIPP would be a better response to the identified concern. A more detailed analysis that is informed by the data from PECO's CAP Rate program would be required in order for the OCA to be able to make recommendations regarding how the CAP Rate program might be modified in a cost-effective manner that would

be fair to both CAP participants and non-CAP residential customers who must pay the costs for the program.

2. Costs and Benefits.

In its discussion of its proposal for PIPP program, the Tentative Order asked for Comments related to the costs and benefits of switching from a CAP Rate program to a PIPP for both CAP participants and non-CAP residential ratepayers who pay for the costs of the programs. Tentative Order at 17. The Tentative Order proposed that there are at least two options: (1) to continue with the TRD and ask PECO to reexamine the rates to address the perceived “inequities and provision of benefits in excess of the Policy CAP credit guidelines” or (2) for PECO to switch to a PIPP. Tentative Order at 15. At this time, the OCA submits that it is not able to assess the costs and benefits for CAP customers or non-CAP residential ratepayers based on the information in the USECP and the APPRISE Evaluation alone. Further analysis of the cost and benefits to switching to a PIPP needs to be completed and understood before the OCA can make a recommendation about whether switching to a PIPP is appropriate.

The individualized level of discounts provided must also be examined in the context of the size of PECO’s current program and the cost implications of a PIPP. As of March 31 2012, PECO had 140,440 customers in its CAP, with projected increases to 146,000 customers by 2015. Tentative Order at 28. PECO’s CAP is by far the largest universal service program in Pennsylvania. At this time, the OCA cannot determine whether it would be more or less cost-effective for both CAP customers and non-CAP residential customers to change from the current CAP TRD to a PIPP.

B. How the Distribution of the LIHEAP Grant Fits With the PECO CAP Rate Program and its Impact on the Net Energy Burdens of the Customer.

The Tentative Order raised the issue of the impact of the recent 2013 Low Income Home Energy Assistance Program (LIHEAP) State Plan on the CAP Rate Program. Tentative Order at 17. The OCA submits that the impact of the assessment of the LIHEAP grant on the “asked to pay” amount must also be reviewed in the analysis of the affordability of the program with either a CAP Rate Program or a PIPP. In 2009, the Pennsylvania Department of Public Welfare (DPW) adopted a policy that required that LIHEAP payments be applied directly to the “asked to pay” amount of the customer’s bill. This “asked to pay” amount is what has been determined to be affordable for the low-income customer in accordance with the Commission’s CAP Policy Statement. In response, many Pennsylvania utilities with a PIPP proposed to revise their programs to address this change. More recently, DPW issued its Final Fiscal Year 2013 LIHEAP State Plan for the 2012/2013 heating season. DPW proposes to return to its prior policy that applies the LIHEAP grant to the CAP credit but it has not received final approval at this time. Under PECO’s CAP TRD, the LIHEAP grant is applied to the “asked to pay” amount.

The OCA submits that further analysis is required to determine the impact of the LIHEAP grant application to the bill under either CAP design.

C. The Viability of the “In-Program” Arrearage Forgiveness and Deferred Payment Arrangement Process.

PECO offers an “in-program” arrearage forgiveness plan and a deferred payment arrangement process. Tentative Order at 15. The Plan provides that:

If a customer falls behind in his or her monthly CAP payments, PECO offers an “in-CAP payment agreement” for the customer to catch-up the arrears and remain on CAP. The customer then must pay the monthly CAP amount- plus a payment agreement within a CAP payment agreement. If a customer is approved for a LIHEAP grant, PECO will grant another payment agreement regardless of the customer’s payment history.

Id. at 15. The Tentative Order cited to 42 instances where a PECO CAP customer had an “asked to pay” amount that consisted of a current bill, a budget bill, a company payment arrangement, or a combination that equaled 20% or more of the customer’s income.” Tentative Order at 16.

The OCA submits that there is not enough information provided in the Tentative Order, the Plan filing, or the APPRISE Evaluation to determine whether future “in-program arrearage forgiveness” and deferred payment arrangements are appropriate. It is the OCA’s understanding, though, that the purpose of the program is to keep the customer in the CAP where they can receive assistance. Without such assistance, the customer would be paying a bill at full rates, which could easily exceed the 20% of income found in the APPRISE evaluation or be facing termination.

The OCA submits that further analysis is required to determine whether future modification of the “in-program” arrearage forgiveness program is necessary; to determine the extent that customers received an unaffordable bill with the program; and to determine whether additional measures should be taken to ensure that customer arrearages and CAP payments do not accrue to these levels.

D. The Viability of PECO’s Assignment of Customers to Appropriate CAP Rate Tiers, Including CAP Rate A.

The Tentative Order requested Comments on PECO’s assignment of customers to the appropriate CAP Rate Tiers, in particular CAP Rate Tier A. Tentative Order at 16-17. As of October 1, 2012, only 88 customers had been enrolled in CAP Rate A. Id. The program has an enrollment limit of 7,500 customers. Id. CAP Rate A was established to provide customers at 0-25% of the FPL and with “special circumstances” with a significantly discounted rate to address their “special circumstances.” The “special circumstances” would include: (1) injury or illness; (2) high medical bills; (3) medically related usage; (3) a recent death in the family; (4) sudden

loss of employment; (5) households with children below the age of 8; (6) an inability to maintain at least two CAP Rate B payment arrangements; or (7) high usage related to shelter issues which are not resolvable by LIURP treatments. Tentative Order at 16. For customers with those “special circumstances,” non-heating CAP Rate A customers would be billed \$12 for the first 1000 kWh and at the CAP Rate D discount for usage above 1000 kWh. For the months of October–June, the heating CAP Rate A customers would be billed \$30 for the first 2000 kWh, and each kWh over 2000 kWh would be billed at the CAP Rate D discount level. Tentative Order at 12. For the months of July-September, the heating CAP Rate A customers would be billed \$30 for the first 1000 kWh and each kWh over 1000 would be billed at the CAP Rate D discount. Tentative Order at 12.

The OCA agrees with the concern expressed in the Tentative Order that it appears that the CAP Rate A program has been under-enrolled. Tentative Order at 16-17. CAP Rate A customers represented only five one-hundredths of one percent of the total CAP Rate population, and only six-tenths of one percent of the Tier A population. Only two customers remained on CAP Rate Tier A for the entire 2011 program year. APPRISE Evaluation at 101, note 21. According to PECO’s needs assessment, approximately 45,505 customers had income at or below 25% of the FPL (which would be the combined CAP Rate A and B programs). APPRISE Evaluation at 9. The APPRISE Evaluation found that approximately 25% of all CAP Rate participants have children under the age of 5, 38% were elderly, and 41% were disabled. APPRISE Evaluation at 6. The OCA submits that it would appear from these statistics that a more significant number of customers may qualify for enrollment in CAP Rate A.

Further information analysis is needed to determine how PECO currently identifies customers for the CAP Rate A program; how accurate this process is; and how more customers can be identified and enrolled in the CAP Rate A program.

E. The Extent to Which, if at all, PECO Should Retain or Modify its One-Year Arrearage Forgiveness Component.

The Tentative Order requested Comments on whether the one-year arrearage forgiveness component should be changed. Tentative Order at 17. At this time, the OCA has not identified significant concerns with PECO's one-year arrearage forgiveness component. The OCA submits that the program does not appear to be imposing unreasonable costs on non-participating ratepayers and provides a benefit to the CAP customers by having their arrearage forgiveness occur in a shorter period of time.

The data presented in the APPRISE Evaluation, PECO's USECP, and the Tentative Order do not provide sufficient information to determine whether improvements can be made to the operation of the arrearage forgiveness program. Although the OCA supports the current program, there are potential operational issues that may need to be addressed. For example, the APPRISE Evaluation shows that in 2011, only 32% of all CAP participants, 31% of the analysis group, and 26% percent of the full year CAP participants received arrearage forgiveness. These customers received "an average of 1.3 arrearage forgiveness payments and an average of \$64 to \$77 in forgiveness." APPRISE Evaluation at 97. The OCA submits that it cannot evaluate the significance of this data without further information.

To the extent that the CAP design is reviewed, the OCA submits that the one-year arrearage forgiveness component should also be reviewed to understand whether it works most effectively within any proposed modifications to the program. To the extent that modifications are considered, the OCA would urge that any arrears credits be earned as bills are paid.

F. The Extent to Which PECO Should Continue Its “Automatic Enrollment” of LIHEAP Recipients into the CAP Rate and Whether, if so, the Extent to Which PECO Should Modify its Consumer Education Program, Including the Costs, Benefits, and Risks to Consumers of the Automatic Enrollment Program.

PECO currently has a policy of automatically enrolling customers who receive a LIHEAP grant in the CAP program. Tentative Order at 18. The Company automatically enrolls the customer in the highest tier, and then notifies and encourages the customer to provide the total household income, so that the Company can assign the customer to the appropriate CAP tier. Tentative Order at 18. The Tentative Order asks for Comments on whether enhanced customer education should be conducted prior to CAP enrollment, in particular when the enrollment is based upon the customer’s LIHEAP status. The Commission’s Tentative Order proposes to limit enrollment to those customers who “understand the CAP requirements, obligations and benefits and will help to control CAP costs for all residential PECO ratepayers.” Tentative Order at 19.

The OCA agrees with the concerns expressed by the Commission about participation in the CAP by a customer on an automatic basis without the customer’s full knowledge or understanding of the CAP requirements, obligations and benefits. The Commission suggests an approach similar to that employed by the Duquesne Light Company. Under this approach, customers receiving the LIHEAP benefit would be given the discount provided to the highest income tier, would be provided written notice of the program enrollment and would be “allowed” to participate for 60 days, or two billing periods. If that customer has not completed the CAP enrollment process by the end of the 60th day, the customer would be placed back on the residential rate.

The OCA supports this approach to automatic enrollment. Participation in CAP carries many benefits for the customer but these benefits come with obligations and requirements that the customer must meet to make program participation successful. In addition, under Chapter

14, participation in CAP could potentially limit a customer's right to a payment arrangement. 66 Pa. C.S. § 1405(c). Customers should be required to acknowledge their understanding of the requirements, obligations, and benefits of the program by completing an enrollment process in a reasonable period of time following the automatic enrollment.

G. The Need For and Operation of PECO's CAP Rate Provision That Customers Be Required to Provide Social Security Numbers.

The Tentative Order requested Comments on whether requiring a Social Security number from all residents is necessary for PECO's CAP. Tentative Order at 22. The OCA submits that a Social Security number should not be required for participation in the CAP program without the demonstration of a need for such information.

The Company has not provided reasons for the need for a Social Security number in order to maintain the "integrity" of the CAP program nor has it presented evidence of significant problems presented due to the lack of a Social Security number. The Tentative Order raises several issues including that the information may be redundant if it is already collected by DPW and "may impose financial and logistical burdens on persons who have already provided identification as part of the application for service process." Tentative Order at 21-22. This rule goes beyond the requirements of Chapter 14, the Commission's CAP Policy Statement and CAP regulations.

There are many potential issues that are not addressed including: (1) potential security issues with maintaining Social Security numbers and how PECO will protect this information³; (2) an explanation of how this information will be used by the Company and why it is necessary; (3) how the information will be disposed of, or if it will be disposed of, if the customer leaves the

³ The Federal Trade Commission has a "Red Flags Rule" regarding the security and protection of Social Security Numbers and has particular provisions with respect to how public utilities must manage this information. See, 16 C.F.R. §§ 682.1, 682.3 (2012); 12 C.F.R. §§ 222.90(b)(5), 222.90(d)(1) (2012).

service territory; (4) the implications if a CAP customer does not have a Social Security number; (5) the potential unwillingness of a customer to provide the Social Security number; and (6) an evaluation of the costs of implementing such a requirement against the benefits of having this information.

None of these issues have been identified or addressed by PECO's proposal to require CAP Rate participants to provide Social Security numbers as a precondition for entering the CAP Rate program. PECO should not be permitted to require such information without addressing the privacy concerns of the collection, protection of the data, use and disposal of the information, and sharing of the information with other third party entities, such as alternative suppliers.

The OCA proposes that a collaborative group be allowed to review this issue more thoroughly. If the collaborative group is unable to make a recommendation after a reasonable period of time, the OCA would propose that the matter be set for hearing.

H. The Need For and Operation of PECO's CAP Rate Provisions Regarding the Proof of Zero-Dollar Incomes.

The Tentative Order questioned whether a notarized letter is necessary when a customer reports that they have zero income. Tentative Order at 22. The OCA does not support a requirement that a customer file a notarized statement supporting an assertion of zero-dollar income. Notarization often requires transportation to a notary and the payment of additional fees. A proper form with a verification would avoid these burdens and costs while providing the necessary information to assess the claim.

The OCA submits that this is beyond the requirements of the Department of Public Welfare (DPW) for the operation of its Low Income Home Energy Assistance Program (LIHEAP) when a customer reports a zero income should be used as a model. The LIHEAP Plan states that "If an applicant reports that he or she has little or no income, the CAO will request a

completed Zero-Income Statement (PWEA 6) that satisfactorily explains how the household pays for rent/mortgage, utility bills, groceries and other basic living costs.” LIHEAP State Plan, Section 601.103. This LIHEAP approach is codified in the Pennsylvania Code at 55 Pa. Code § 601.103.

The OCA recommends that the Company mirror the income statement required by LIHEAP. Under PECO’s proposal, a zero-dollar income customer would be required to expend both time and money in obtaining a notarized statement. Notaries often require a fee for their services, and while it may not be a significant fee, a zero-income customer would not likely have money to expend on such a service. Further, depending upon the location of the zero-dollar income customer, the customer may not have a convenient access or transportation to a notary public.

Neither the APPRISE evaluation nor PECO have provided any information as to the number of zero-dollar income customers or the reasons why a special process is needed beyond what DPW requires.⁴ The OCA recommends that PECO track and report data on zero-dollar income program participants. The OCA submits that the response to the problem should be scaled to the extent of the problem. To the extent that this is a minor problem, impacting a relatively few number of customers, the OCA recommends that an extensive effort would not be cost-justified.

The OCA submits that PECO should adopt a policy similar to that of DPW and require that the zero-income customer explain on a proper form how the customer pays for his or bills.

⁴ The OCA notes that the APPRISE Evaluation has only noted that it has excluded data for those customers with zero or missing income information. APPRISE Report at 99.

I. The Viability of PECO's Use of a Population Average CAP Rate Credit Ceiling.

The Tentative Order requested Comments regarding PECO's use of an averaging of maximum CAP credits, including the cost implications, and whether this policy should be continued. Tentative Order at 23-24. The OCA submits that it is unable to consider the full range of policy implications from PECO's use of a "population average" CAP Rate credit ceiling and the application of an individualized maximum CAP credit per participant without additional information.

The Tentative Order's Table 3 shows the average amount by which the application of the PECO population average credit ceiling results in credits that are "over" or "under" what the credits would have been under the Commission's per participant CAP credit ceiling. Id. at 23. According to Table 3, the non-heating Tier B (0-25% of the Federal Poverty Level (FPL)) received \$721.42 in excess credits; Tier C (26-50% of the FPL) received \$624.75 in excess credits; Tier D (51-75% of the FPL) received \$329.84 in excess credits; and Tier D1 (76-100% of the FPL) received \$276.92 in excess credits. Id. The OCA would need to review the underlying supportive data for these calculations to better understand what recommendation to propose regarding the excess CAP Rate credits. The OCA is concerned that these CAP Rate tiers that are receiving the excess credits are also the lowest income Tier households and are those that are experiencing the highest degree of unaffordable rates under the existing CAP Rate structure.

Further, the OCA submits that without additional supportive data and a usage analysis, it is also not clear how changing these maximum CAP credits ceilings from a population average to a per participant level within either the current CAP Rate structure or within a PIPP would impact either CAP participants or the costs paid by non-CAP residential customers. The OCA

recommends that such a cost analysis be undertaken, both for CAP participants and the impact on non-CAP residential customers under both a CAP Rate program structure and a PIPP.

J. The Viability and Implementation of PECO's CAP Rate Referrals to the Low Income Usage Reduction Program (LIURP).

The Tentative Order sought Comments regarding the effectiveness of PECO's Low Income Usage Reduction Program (LIURP) education efforts and recommendations for appropriate improvements needed in its training efforts or CARES program. Tentative Order at 25-26.

The OCA supports in theory the current referral process as described in the APPRISE Evaluation. According to the APPRISE Evaluation:

PECO sends a quarterly download of high usage, low-income customers to CMC. Customers are also referred to LIURP through PECO staff and external agencies. CMC prioritizes CAP participants for LIURP service delivery. Those with the lowest income and the greatest CAP benefits receive the highest priority. CMC prioritizes the remaining LIURP participants by energy use and income.

APPRISE Evaluation at ix. (footnotes have been deleted.) The Evaluation also states that “[a]ll CAP participants with monthly usage above 500 kWh are considered for LIURP. Those with the lowest income and the greatest CAP benefits receive the highest priority. CMC prioritizes the remaining LIURP participants by energy use and income.” Id. at 37.

The OCA submits that in practice, the information available seems to indicate that there are possible issues with the way that referrals are occurring. The Tentative Order cites to a “statistically significant number of complaint calls from customers with an evident need who had not been referred to LIURP.” Tentative Order at 26. Further, in the APPRISE Evaluation, the relative participation by income level is virtually identical between the CAP Rate customers and those in LIURP. For example, the percentage of CAP customers between 0-50% of the FPL is 21% and the number of LIURP participants between 0-50% of the FPL is 24%. The number of

CAP Rate customers between 51-100% of the FPL is 48%, and the number of LIURP customers between 51-100% of the FPL is 46%. The number of CAP Rate customers between 101-150% of the FPL is 24%, and the number of LIURP customers between 101-150% of the FPL is 33%. The remaining LIURP participants have incomes at above 151% of the FPL. APPRISE Evaluation at 41, Table 3-9B. This close correlation between income level and LIURP participation could lead to the potential conclusion that LIURP services are being apportioned more on CAP customer income strata than on the highest usage levels.

The Tentative Order states that PECO projects an average of 7,800 customers each year from 2013-2015 in LIURP, a decrease from the number of customers in 2009-2010, due to the increased cost of weatherization measures. Tentative Order at 25. However, additional funds should also be available for low-income customers through the low-income Energy Efficiency & Conservation Programs (EE&C) under Act 129. There has not been a discussion of the impact of the EE&C programs on the LIURP program referrals.

The APPRISE Evaluation also stated that PECO has had difficulty finding LIURP participants with high pre-program usage, but did not provide a reason for that conclusion. The reasons behind this difficulty in finding LIURP participants with high pre-program usage should be further explored.

The OCA submits that the above information provides only possible questions about the efficacy of the LIURP referral process, but no basis for how to resolve the issues. Without additional information, the OCA cannot assess the manner and actual operation of PECO's LIURP referral program.

K. The Impact That Switching to a PIPP Will Have on CAP Customers' Ability to Shop.

The Commission recently required PECO to implement a shopping program for CAP customers to begin no later than January 1, 2014 and required that PECO work with OCMO to develop a CAP shopping plan. After that time, interested parties would be permitted to respond to PECO's filed CAP shopping Plan. PECO DSP II Order, Docket No. P-2012-2283641 (Order entered October 12, 2012); see also, Reconsideration Order, PECO DSP II, Docket No. P-2012-2283641 (Order entered November 21, 2012). PECO raised a number of significant issues that need to be addressed prior to allowing CAP customers to switch to an alternative provider in its DSP II filing, including:

(1) how to protect CAP customers from commodity volatility; (2) how to seamlessly integrate the Low Income Home Energy Assistance Program and CAP portability; (3) the need to allow PECO's recent CAP tier changes and in-program arrearage forgiveness programs time to mature before making other major changes to its CAP program; (4) integration with PECO's Rate RH phase-out; and (5) how to implement a discount on the customer's bill, especially given that the discount would, in many cases, be larger than the customer's distribution charges. In addition, the risk of higher costs for all customers associated with greater uncollectible expense needs to be considered and addressed.

PECO M.B. at 66, PECO DSP II, Docket No. P-2012-2283641. The interested parties will need to respond to PECO's Plan to implement CAP shopping. Whatever changes are implemented as a result of the CAP shopping plan, the Company will need to make changes to its internal IT system to accommodate the changes and to educate customers about the changes.

The Tentative Order identifies that PECO will need to modify its computer programming in order to allow CAP customers to shop and directs that these two changes be coordinated to allow for implementation of both changes by January 1, 2014. The OCA submits that in order to develop a CAP shopping plan and resolve the issues surrounding such an initiative, the type of customer assistance program, whether a CAP Rate discount or a PIPP, must be known in

advance. The key is to make the CAP benefit portable and the different CAP designs provide benefits in different ways. The OCA submits that the CAP design will need to be known before a CAP shopping plan can be fully designed. Further, if the CAP structure is changed following the development of a CAP shopping plan, this would require the parties to re-design the CAP shopping plan in order to fit the new CAP structure. This also could potentially lead to significant additional costs and customer confusion about CAP shopping and the structure of the CAP program discounts.

The OCA also has significant concerns about how two such fundamental changes to CAP, done simultaneously, will impact the costs of the program. Since other residential customers provide the subsidy for the CAP programs to bring the “asked to pay” amount to an affordable level, the OCA also submits that allowing CAP customers to shop should not be allowed to increase the overall cost of the program (either through the CAP costs or administrative costs) or increase the uncollectible expense of the EDC. The goal of allowing CAP customers to switch to an alternative supplier should be to bring benefits to both the CAP customer and the overall program through reduced costs. The CAP shopping program must be developed to allow CAP customers to participate in the retail markets without compromising affordability, compromising other benefits provided by the programs, or increasing the costs of the program to other residential customers.

The OCA recommends that the CAP program design must be addressed prior to the development of a final plan to allow CAP customers to switch to an alternative provider.

L. Additional Issues.

1. Cost Control Measures.

The OCA submits that there may be additional opportunities for cost control measures and the stakeholders should look at the “best practices” of other utilities to determine whether there are additional opportunities. Whether through a PIPP or a CAP Rate Discount program, the delivery of the home energy affordability benefits always involves a balancing of interests. The interest of low-income customers participating in a CAP must be balanced against the interest of those non-participating customers who pay the costs for the program. As a result of this balancing, within the constraint of minimizing deviations from the objective of delivering “affordable” home energy service, the OCA is also interested in exploring through a collaborative mechanisms by which the costs of CAP to be paid by non-participants can be reasonably controlled.

2. Changes to the RH Rate kWh Discount Levels.

On October 12, 2012, PECO separately filed Supplement No. 55 to Tariff Electric- Pa. P.U.C. No. 4 Effective January 1, 2013 Updating CAP Discount Rates And Maximum Discounts Provided Under Terms of the Settlement at Docket No. R-2010-2161575 (Section D/Statement I) and Tariff Electric-Universal Service Fund Charge- Section 1307 Final Annual Rate Adjustment for 2012. These two filings are currently pending before the Commission and proposed to increase the amount of kWh on which a residential heating (RH) Customer Assistance Program (CAP) customer could receive a discount.⁵ To the extent that the CAP program is further addressed and possibly modified, the OCA submits that these proposals should be reviewed as part of this process to ensure appropriate coordination.

⁵ The OCA notes that the RH rate for PECO customers is being raised to full default service pricing by January 1, 2013. PECO’s proposed change is designed to address this issue for PECO CAP customers served under Rate RH.

III. Conclusion

The OCA appreciates the opportunity to comment on PECO's Amended Universal Service and Energy Conservation Plan for 2013-2015. The OCA respectfully submits that its comments and recommendations contained herein should be adopted.

Respectfully Submitted,



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DATE: November 28, 2012

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CERTIFICATE OF SERVICE

PECO Energy Company Universal Service :
And Energy Conservation Plan For 2013-2015 : Docket No. M-2012-2290911
Submitted in Compliance with 52 Pa. :
Code §§ 54.74 and 62.4

I hereby certify that I have this day served a true copy of the foregoing, the Office of Consumer Advocate's Comments, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code Section 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 28th day of November 2012.

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