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December 10, 2012

VIA FEDERAL EXPRESSRosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
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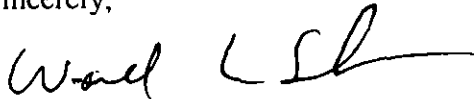
PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU**Re: PECO Energy Company Universal Services And Energy Conservation Plan for
2013-2015 Submitted in Compliance with 52 Pa. Code §§
Docket No.: M-2012-2290911**

Dear Secretary Chiavetta:

Enclosed for filing in this docket is one signed original copy of the Reply Comments of PECO Energy Company to the November 8, 2012 Tentative Order.

Please let me know if you have any questions.

Sincerely,

Ward L. Smith
Assistant General CounselEnclosures
WS/cmjv

cc: (Via email in Word-compatible format)

Grace McGovern, Bureau of Consumer Services
Louise Fink-Smith, Law Bureau
Cyndi Page, Office of Communications

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION
PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU**

**PECO Energy Company Universal :
Service and Energy Conservation Plan : DOCKET NO. M-2012-2290911
for 2013-2015 Submitted in Compliance :
with 52 Pa. Code §§ 54.74 and 62.4. :**

**REPLY COMMENTS OF PECO ENERGY COMPANY
TO THE NOVEMBER 8, 2012 TENTATIVE ORDER**

I. INTRODUCTION

On November 8, 2012, the Commission issued a Tentative Order in which it invited comments on the PECO Energy Company (“PECO”) Universal Service and Energy Conservation Plan for 2013-2015 (the “2013-2015 Three-Year Plan”). On November 28, 2012, PECO and numerous other stakeholders filed comments. PECO appreciates the opportunity to provide these brief reply comments.

These reply comments follow the same organizational structure as PECO’s comments. These comments also continue the focus requested in the Tentative Order of identifying which issues should be sent to the Office of Administrative Law Judge for evidentiary hearings, and which are resolvable on the basis of written comments.

In its comments, PECO requested that, prior to moving to any litigation on its Three-Year Plan, the Commission allow PECO and the other low-income stakeholders to meet collaboratively to determine whether they can resolve, eliminate, or at least more clearly delineate the issues for litigation. PECO recommended that the parties should

report to the Commission on May 1, 2013, as to which issues the parties were able to collaboratively resolve and which would still need litigation. PECO notes that the other commenting stakeholders, especially the Office of Consumer Advocate (“OCA”) and the TURN et al., were generally supportive of that collaborative approach preceding litigation.

As to the specific issues discussed in PECO’s comments and the comments of other stakeholders, it provides the following reply comments.

II. CAP Rate

a. Affordability

Affordability and a Percentage of Income Plan (“PIPP”)

In its comments, PECO stated that the issue of affordability needs additional factual development and should be sent to a collaborative and litigation, if necessary. The OCA’s comments state (p. 6) that it needs additional discovery and analysis before it can take a position on this issue, and recommends that the issue be sent to collaborative and litigation. The comments of TURN et al. argue in favor of a PIPP, but also state (p. 5) that this matter is appropriate for referral to the OALJ for further factual investigation. Dr. Gil Peach also argues in favor of a PIPP, but makes it clear throughout his comments that his analysis is based on data that is nearly a decade old, and that additional updated analysis would need to be conducted in order to reach a proper conclusion. No other stakeholder addressed this issue. It is thus the unanimous consensus of the comments

that this issue needs additional factual development. PECO requests that it be addressed through the collaborative/litigation approach described in its initial comments.

PECO also reiterates points from its initial comments on this issue. First, it appears that achieving affordability will be an expensive proposition – in excess of an additional \$11 million per year, and perhaps much more, would be needed to achieve affordability. Second, PECO's program is successful by other Commission-defined measures of affordability such as how successfully customers pay their utility bills. Third, one of the reasons that PECO's rates do not attain affordability is because, in some situations, Commission-mandated cost containment measures require PECO to issue bills that are higher than the affordability targets. Fourth, there may be very substantial transition costs -- currently estimated at \$4.5-\$6 million for IT programming, training, etc. -- associated with a move to a PIPP.

Affordability and Revenue and Expense Impacts

In its comments, PECO requested that the Commission review of affordability should include the question of the proper offset amounts for cash working capital and credit/collection and uncollectible expense should be made a part of that proceeding. PECO is not aware of any other comments that addressed this issue, and reiterates its request.

Affordability and Customer Confusion

The Tentative Order's discussion of affordability also contains a discussion (pp. 15-16) of potential customer confusion and notes 42 specific occurrences where PECO offered a payment arrangement to a CAP customer wherein the payments equaled 20% or more of the customer's monthly income. In its comments, PECO submitted that no hearing is required on this issue because the Commission does not have authority to require or regulate CAP payment arrangements, and a hearing could thus serve no useful purpose. PECO is not aware that any other comments were filed on this issue, and therefore reiterates that this matter should be resolved on the basis of its comments and does not need to go to hearing

PECO also reiterates its comment that, if the Commission is correct that program dissatisfaction can be determined by the number of complaints, the BCS analysis demonstrate that 99.6% of PECO's CAP population is satisfied with the CAP program.

Affordability and CAP A

The Tentative Order notes that PECO has 88 customers in its CAP Rate A, and invites comments on "how accurately PECO is assigning customers to the proper CAP rate schedule."

In its comments, PECO demonstrated that concerns over CAP A enrollment levels are based upon a misreading of its CAP A tariff. PECO's CAP A tariff is available only to customers who *demonstrate an inability to pay CAP B bills* due to a number of listed

“unique circumstances.” The mere fact of, for example, having an elderly infirm in a very poor household is not sufficient, under PECO’s CAP A tariff, to establish eligibility for CAP A – the household must also have an inability to pay its CAP B bills. Coupled with the fact that CAP B bills are typically quite low and affordable, this means that few customers are eligible for CAP A because almost everyone who has average usage can pay a CAP B bill.

The OCA and TURN both recommended hearings on this issue, but in both comments the request for hearings was based on the assumption that the mere presence of an infirm elderly (or other “unique circumstance”) is itself sufficient to establish CAP A eligibility. That is simply an incorrect reading of the tariff. No testimony is needed to determine the meaning of the tariff.

As PECO stated in its comments, this is simply a debate as to how to read its tariff, not a factual or policy dispute regarding CAP A. PECO’s discussion of its tariff language demonstrates that CAP A eligibility is determined by having CAP B payment troubles AND one of the listed conditions. PECO therefore does not believe that there are any remaining disputed factual issues for resolution by an ALJ.

Affordability and 12-Month Arrearage Forgiveness

The Tentative Order also briefly invites comments on “whether PECO should retain its one-year arrearage forgiveness policy in light of the other changes proposed in this plan proceeding.”

As PECO noted in its comments, PECO's 12-month arrearage forgiveness program is the result of Commission-approved settlements. PECO is not aware of any controversy regarding this portion of its plan, and sees no reasons that it should be changed. In PECO's experience, few CAP customers make 12 consecutive in-full and on-time payments in any event, and thus the arrearage forgiveness typically is not completed until the 24-36 month time range, or even later, in any event.

The OCA states (p. 11) that it has not identified any concerns with this aspect of PECO's CAP program. TURN et al. do not appear to have commented on this issue. PECO reiterates its position – this is an approved program about which no one has raised a concern. There is no reason to use Commission and stakeholder resources on litigation on this issue. This issue should be dismissed on the basis of comments.

b. Automatic Enrollment and LIHEAP

The Tentative Order requested comments on two aspects of PECO's program of automatically enrolling LIHEAP recipients in CAP. For customer education, PECO commented that its program already provides appropriate customer education, and that no hearings are required on that issue. It does not appear that any commenter suggested otherwise.

As to the second issue, the Commission invited comment on whether PECO should require a "positive customer response" for automatic enrollment so that customers

are not inadvertently enrolled in CAP against their will at prejudice to their rights. PECO commented that a “positive customer response” should not be required because that will mean that the program is no longer automatic. PECO also noted that it is not aware of any data that suggests that customers are inadvertently trapped in a discount program they do not desire, acknowledged that a hearing on this issue may be appropriate to explore such data. PECO respectfully notes that no comments appear to have made such a suggestion. There thus does not appear to be a factual dispute that would warrant sending this matter to an ALJ.

In general, TURN et al. support PECO’s current automatic enrollment practice, and recommend that before going to a positive customer response approach more analysis is needed. OCA recommended that PECO should move to the approach used by Duquesne. PECO recognizes these requests for additional analysis on this policy issues, but respectfully submits that, in the absence of the material factual dispute discussed above, there is no reason to send this issue to an ALJ.

(c) Shopping

(d) Timing of Changes and Coordination of Computer Programming

The Tentative Order notes that the Commission has ordered PECO, in its DSP II proceeding at Docket No. P-2012-2283641, to implement CAP shopping not later than January 1, 2014 and that PECO will need to respond through that docket as to how it will implement CAP shopping.

In its comments, PECO acknowledges the direction it has received in the DSP II docket, and it will respond in that docket as directed.

The OCA provided extensive comments on this issue (pp. 19-20) and argued that, by requiring PECO to have its CAP customers shopping by January 1, 2014, the Commission is foreclosing full analysis of many issues in the instant docket. As the OCA noted that, in order to develop a proper CAP shopping program, “the type of customer assistance program, whether a CAP Rate discount or a PIPP, must be known in advance.” TURN et al. presented a similar analysis, stating (p. 7) that the Commission should order PECO to implement a PIPP prior to implementing CAP shopping.

PECO states again that it will proceed as directed by the Commission in its DSP II proceeding. As PECO stated in the section of its comments related to “Timing of Changes,” doing so will cause PECO to develop its CAP shopping platform based on its current program, because otherwise it will not be able to implement CAP shopping by January 1, 2014.

e. Requiring a Social Security Number

PECO requires that CAP participants and their household members provide Social Security Numbers (“SSNs”) on its CAP application. The Tentative Order (pp. 20-22) requests comments on this practice. PECO provided extensive comments on this issue, as did numerous other parties, including the OCA, TURN et al., Pennsylvania Coalition Against Domestic Violence (PCADV), and Face-to-Face.

At the outset, PECO notes that PCADV raised concerns about foreign victims of domestic violence. PCADV commented that such victims who are engaged in obtaining a “U Visa” or “V Visa” will not yet have an SSN, but may nonetheless be in need of PECO’s CAP program. PECO is amenable to working with any person who demonstrates that they are in the process of obtaining a U Visa or V Visa to enroll that individual in its CAP program, if income-eligible. Similarly, in PECO’s comments it stated that it would enroll on the basis of Individual Tax Identification Numbers (“ITINs”). No litigation is needed on those issues, as PECO is willing to adopt those practices on the basis of comments and conversations on this issue.

With respect to the remainder of PECO’s policy, however, it reiterates its comments. PECO requires these numbers in order to address fraud and provision of duplicate services. This practice is legal and consistent with federal and state anti-fraud policies. In fact, the federal Department of Health and Human Services specifically recommends that states should require such information before issuing LIHEAP grants. DPW requires SSNs to provide Food Stamps, etc., and strongly seeks them on LIHEAP applications. The Social Security Administration publications state that utilities can refuse to provide service if a customer does not supply an SSN. And the Commission’s CAP policies support the use of anti-fraud measures, specifically including reliance on the government programs that require SSNs.

Notwithstanding the numerous comments on this issue, PECO does not believe that hearings are necessary. PECO’s program is entirely consistent with established

public policy to use SSNs in very similar situations for fraud control. As noted with respect to U Visas, V Visas, and ITINs, PECO is willing to work with reasonable *additional methods of identification and tracking, but there is no warrant for abandoning* the use of SSNs, which are commonly collected by government agencies for this precise purpose.

f. Requiring Proof of No Income

The Commission's Tentative Order (p. 22) also seeks comments on PECO's practice of requiring persons who claim to have households with "no income" to provide a notarized letter stating that the household has no income. PECO commented that, as with SSNs, this is anti-fraud provision. It is intended to heighten customer's sense of formality and importance when claiming that their household has no income. Moreover, PECO commented that the allowable \$5 notary fee¹ is unlikely to create a significant financial barrier.

Several commenters, including TURN et al., Community Legal Services, PCADV and Face-to-Face, argued that PECO should not require a notarized letter of no income. *Essentially all of them argued that PECO should use the DPW approach of requiring a non-notarized statement that explains how the customer household pays its bills in the absence of income.* As PECO indicated in its initial comments, this approach in no way seems to be a lesser burden on customers, and certainly will create a greater burden on PECO and the Commission as they evaluate these substantive statements. PECO

¹ Several comments suggested that notaries charge higher fees – which would violate the Department of State's regulations on the issue. PECO respectfully submits that the proper course of action in such cases is to seek enforcement of the Department of State fee schedule, not to prohibit use of notaries.

therefore continues to believe that its practice should be supported on the basis of its comments. If the Commission sends this matter to hearing, however, PECO requests that the advocates of the DPW program be required to present evidence demonstrating that it does not create burdens and barriers on the customers, utilities, and the Commission.

g. CAP Credits

The Tentative Order requests comments on PECO's previously-approved practice of applying the maximum CAP discount on a system-wide, rather than an individual customer, basis. In its comments, PECO strongly recommended retaining this approach. It provided preliminary data that changing the policy would expose just short of 30,000 of the poorest of poor families to unaffordable, or even more unaffordable, utility rate. *TURN et al.* strongly supported PECO's policy and suggested hearings only insofar the Commission is otherwise disposed to change this factor of PECO's program. The OCA states that it does not have sufficient information to make a recommendation, and therefore recommends further analysis. No other comments were received on this issue.

PECO questions whether this aspect of its program – which is strongly supported by itself and the low-income advocates, and which no commenter suggests is inappropriate – should be sent to litigation. PECO believes that its use of a system-wide average has an obvious public policy advantage that is discernible and supportable on the basis of the comments received to date. However, if the Commission does order this issue to litigation, PECO will incorporate analysis of this issue into its testimony on affordability and cost of its program.

III. Low-Income Usage Reduction Program (“LIURP”)

The Tentative Order also seeks comments on the effectiveness of PECO’s Low-Income Usage Reduction Program (“LIURP”) in targeting and educating high users. In its comments, PECO noted that its LIURP program is subject to an annual evaluation, the most recent version of which is highly complimentary of PECO’s program, stating that:

PECO’s LIURP cost-effectively delivered energy efficiency services and energy education to over nine thousand customers in 2010, many of whom had vulnerable household members. They have kept program administration costs low, at just seven percent of program expenditures. Reductions in energy usage were larger for electric baseload jobs than in previous years, but smaller for electric heat and gas heat jobs than in previous years.

However, reductions in energy usage for customers receiving electric heat and gas heat services were lower than in previous years. For customers receiving electric heating or gas heating services, the reduction in savings is probably due to lower pre-treatment energy usage. PECO has been providing LIURP services for many years, and has furnished LIURP to many of its highest usage customers.

We have the following recommendations to continue to deliver effective services and potentially improve savings.

- *Targeting:* It is a challenge to continue to find high usage customers to treat in the program. Lower energy savings for 2010 electric heat and gas heat jobs as compared with 2009 electric heat and gas heat jobs may be related to lower pre-treatment usage for these households. PECO should continue to make targeting the highest usage households a priority for the program.

- *Education:* The high savings for households that only received CFLs, as well as previous customer survey research conducted as part of PECO’s USF evaluation, indicate that the energy education conducted as part of LIURP is successful. We believe this is due to the extensive education process that occurs during the audit and the reinforcement that occurs through letters and phone calls. PECO should continue the emphasis on education.

As PECO noted in its comments, there is nothing in this evaluation that suggests PECO is having difficulty targeting or reaching its high usage customers. To the

contrary, the evaluation suggests that PECO has reached its eligible high usage customers and is now re-addressing that same population and working with lower levels of usage. PECO does not believe that hearings on this issue are warranted.

IV. Organizational Structure

The Tentative Order states that this docket may result in program changes and that if it does, “PECO should reevaluate [its current] level of support to consider any further training necessary for the program changes ultimately directed through a final order and employ sufficient staff to operate its programs efficiently. Accordingly, PECO is directed to address this issue further in its comments to this order.”

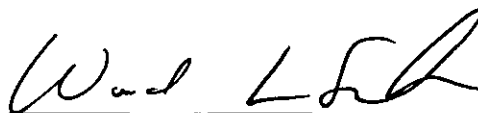
In its comments, PECO agreed that, to the extent that the final order in this proceeding orders program changes, it will need to re-evaluate its training and staffing to ensure that the new programs operate efficiently, and it will do so upon receipt of a final order. PECO does not believe that this issue is yet ripe to be sent to an ALJ. PECO is not aware of any other comments that were filed on this issue and asks that its comments be adopted.

V. Summary and Conclusion

In its comments and these reply comments, PECO has made recommendations with respect to whether the issues identified in the Tentative Order should be sent to the Office of Administrative Law Judge for evidentiary hearings. PECO respectfully

requests that the Commission adopt the recommendations in its comments and reply comments in resolving the issues set forth in the Tentative Order.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Ward L. Smith". The signature is written in a cursive style with a horizontal line underneath the name.

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December 10, 2012

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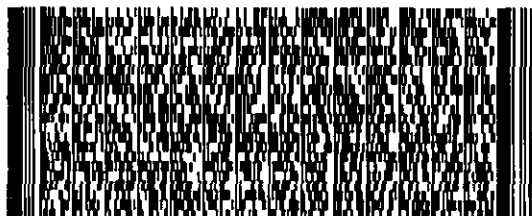
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