

COMMONWEALTH OF PENNSYLVANIA



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December 26, 2012

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17101

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

Dear Secretary Chiavetta:

Attached for electronic filing are the Comments of the Office of Consumer Advocate in the above-referenced proceeding.

Copies have been served on the parties listed on the attached Certificate of Service.

Respectfully Submitted,

Candis A. Tunilo

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Attachment

cc: Honorable Dennis J. Buckley, ALJ
Certificate of Service

164080

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

COMMENTS OF THE
OFFICE OF CONSUMER ADVOCATE

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Dated: December 26, 2012

I. INTRODUCTION

On October 12, 2012, the Pennsylvania Public Utility Commission (Commission) entered an Opinion and Order (October 12 Order) in the above-captioned proceeding involving the Default Service Plan II (DSP II) of PECO Energy Company (PECO or Company). In the October 12 Order, the Commission directed PECO to submit new proposals for various aspects of its DSP II. October 12 Order at 155-157. In the October 12 Order, the Commission directed PECO to submit: (1) new proposals for the Company's Retail Market Enhancement (RME) Programs, specifically the Company's proposal regarding Electric Generation Supplier (EGS) selection, customer assignment and the role of the independent monitor for the Retail Opt-In Program (Opt-In Program) and application and form requirements for EGSs that participate in PECO's Opt-In Program and Customer Referral Program (Referral Program), and (2) a revised cost recovery Mechanism for the Opt-In and Referral Programs. Id. PECO was directed to create these new proposals after discussion and consultation with the other parties and stakeholders and submit them within sixty days of entry of the October 12 Order. Id.

PECO convened in-person stakeholder meetings on November 27, 2012 in Hershey, and December 3, 2012 in Philadelphia and a conference call on December 6, 2012. The interested parties reached consensus on many topics but were unable to reach a consensus on all provisions of the EGS applications and form requirements or cost recovery. Thereafter, on December 11, 2012, PECO submitted its Revised Default Service Plan Compliance Filing (Revised Plan) to the Commission. In its Revised Plan, PECO proposed that other parties and stakeholders submit Comments to the Revised Plan by December 27, 2012, and Reply Comments by January 7, 2013. Revised Plan at 12-13. PECO has requested that the Commission enter a final order on its

Revised Plan by January 24, 2013, so that PECO will have sufficient time to implement the Company's Opt-In Program. Revised Plan at 5.

The Office of Consumer Advocate (OCA) actively participated in the collaborative discussions regarding the RME Programs and cost recovery. The OCA acknowledges that a consensus was not reached on all aspects of the RME Programs during this collaborative process. The Revised Plan presents a method to implement the RME Programs as directed by the Commission in its October 12 Order and to recover the costs associated therewith. In accord with PECO's proposed schedule, the OCA submits these Comments to PECO's Revised Plan. The OCA will focus its Comments on elements of the Revised Plan that are of particular importance to the OCA, including the RME Programs and the cost recovery provisions.

II. COMMENTS

A. Opt-In Program.

In the October 12 Order, the Commission directed the Company to develop a twelve-month Opt-In Program product, comprised of a \$50 bonus, a four-month guaranteed five percent discount off of the Price to Compare (PTC), and an EGS-provided fixed-price product for the remaining eight months of the Program. Several of the Opt-In Program provisions are of particular importance to the OCA, as they represent consumer protections that should be incorporated in any final resolution of this matter.

For instance, PECO's Revised Plan includes provisions in the revised Opt-In Program that will enable the OCA to have relevant and timely information in order to better assist consumers. The Revised Plan provides that the Commission staff, OCA, Office of Small Business Advocate (OSBA) and EGSs will have the opportunity to review the draft Opt-In Program Offer Package that will be mailed to eligible customers and provide feedback prior to

finalization of the Offer Package. See Revised Plan at Exh. D, ¶ 6.3.1. As the Opt-In Program is initiated, the OCA expects to see an increase in traffic to its public website and also an increase in call center activity. It is, therefore, important for the OCA to be familiar with the information contained in PECO's Offer Package.

In its Revised Plan, EGSs participating in PECO's Opt-In Program must prepare and submit a confidential report to PECO containing:

6.5.1 Number of customer accounts sent by offer packages (by Rate); Number of customer accounts that accepted the offer (by Rate); Form of acceptance (by Rate) (i.e. % Post Card[;]% Website; and % Phone, totaling 100%).

Revised Plan at Exh. D, ¶ 6.5. The confidential report must be submitted to PECO within thirty days of the conclusion of the Opt-In Program. Id. PECO will provide confidential copies of these reports to the Commission, the OCA and OSBA. Id. Since PECO's Revised Plan charges participating EGSs with administering the 50% customer participation cap (see Revised Plan at Exh. D, ¶ 6.3.5), EGSs must track the information required in the confidential reports. The reporting requirement, therefore, should not impose undue costs or time burdens on participating EGSs. The OCA submits that these reports will be crucial to determining the success of the Opt-In Program.

The OCA submits, however, that there is additional information that would be valuable in determining the success of PECO's Opt-In Program and should be included in the reporting requirement. For instance, EGSs should be required to track the number of Opt-In Program customers that remain in the Program each month for the duration of the Program. Such information would help determine which elements of the Opt-In Program (*i.e.*, 5% discount off the PTC, \$50 bonus) were valuable to customers. Knowing what elements of the Opt-In Program were most valuable to customers could assist the Commission, EDCs and advocates in

education efforts and could assist EGSs in developing products for customers. Additionally, as described below in Section II.B., similar information must be provided to PECO by EGSs participating in the Referral Program. The OCA submits that EGSs should be required to also track the number of Opt-In Program customers remaining in the Program, by month, for the duration of the Program.

One final provision of the revised Opt-In Program that the OCA wishes to highlight here are the certifications of the \$50 bonus payment. The Revised Plan provides that:

- 7.7 The Opt-In Supplier shall track the following information related to the payment of bonus checks and shall provide this information to PA PUC Staff and/or the [OCA] and/or the [OSBA], on a confidential basis, upon request: Customer Name; Address; Account Number; Date that the customer qualified to receive the bonus check; Date the bonus check was mailed; and an indicator of whether the bonus check was cashed.
- 7.8 Within ten business days of satisfying all of its bonus payment obligations under the Program, the Opt-In Supplier shall provide written notice (by email) of such satisfaction to the PA PUC Staff, the OCA (for residential customers) and the OSBA (for small commercial customers).

Revised Plan at Exh. D, ¶¶ 7.7-7.8. The OCA submits that these provisions provide important components as to a review of the Opt-In Program and a verifiable link to the provision of the \$50 bonus to participating customers.

As such, the OCA submits that the revised Opt-In Program provisions discussed above represent important consumer protections that should be included in any final disposition as to the Opt-In Program for PECO. Of note, however, the Revised Plan does not require EGSs to submit their eight-month fixed price offer to customers prior to enrollment. The OCA remains concerned that customers will be solicited to enroll in the Opt-In Program without knowing the full terms and conditions of the Program prior to enrollment. The OCA is still of the view that a

better approach is to provide customers with all of the terms and conditions of the Program in the initial customer enrollment letter.

B. Referral Program.

PECO's Revised Plan contains a reporting requirement for participating EGSs.

Specifically, it states:

- 4.5 Report to PA PUC. In order to monitor the success of the Standard Offer Supplier Program, PECO will produce two confidential reports to the Commission and the [OCA] annually, with the first report submitted within 45 days after PECO has operated the programs for 12 complete months. The second report will be submitted by June 15, 2015. In order to obtain statistics to prepare this report, Standard Offer Suppliers shall provide metrics on a monthly basis in the form of electronic reports to PECO, including, for each month, the number of accounts that enrolled in the program for the Standard Offer Month, the number of accounts that have dropped from the program in each month before the end of the 12-month Standard Offer Period (e.g. number of accounts dropped in the first month of the term, number of accounts dropped in the second month, etc.); and the number of accounts retained by the EGS for [sic] at the end of the 12-month Standard Offer Period. PECO will provide a template for this reporting to facilitate compilation of data.

Revised Plan at Exh. E, ¶ 4.5. Similar to the reporting requirements in PECO's Revised Plan relative to its Opt-In Program, the OCA submits that these reports will be crucial to determining the success of the Referral Program, which will be an ongoing Program, and therefore, should be included in any final disposition as to the Referral Program.

C. Cost Recovery.

Cost recovery for the Opt-In and Referral Programs has been an on-going concern for the OCA. The OCA agrees with the Commission that these costs should be recovered from participating EGSs, as they are the primary beneficiaries of the RME Programs. See October 12 Order at Ordering ¶ 14.¹ See also Investigation of Pennsylvania's Retail Electricity Market:

¹ On November 21, 2012, the Commission entered an Order on reconsideration in this matter and stated, *inter alia*, that the parties consider cost responsibility of EGSs and possibly customers in a collaborative process.

Intermediate Work Plan, Docket No. I-2011-2237952, Final Order at 78, 84-85 (Mar. 2, 2012); Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company, and West Penn Power Company for Approval of Their Default Service Programs, Docket Nos. P-2011-2273650 *et al.*, Order at 136-37, Ordering ¶ 12 (Aug. 16, 2012). The Revised Plan provides, as directed by the Commission in the October 12 Order, that the implementation and ongoing costs of the RME Programs will be collected from EGSs. See Revised Plan at Exh. D, ¶ 8.1; Exh. E, ¶ 6.1.

The OCA submits that these provisions reflect reasonable cost recovery methods. The OCA would note, however, especially as to the Referral Program, a particular emphasis should be placed on maintaining a cost-effective program in order to ensure program participation by EGSs and success for all stakeholders.

D. Conclusion.

The Revised Plan represents a method to implement the programs directed by the October 12 Order. As discussed above, the collaborative process was not able to achieve full consensus on many of the key issues here, but the provisions that the OCA has listed herein do provide important customer protections. Accordingly, the OCA submits that such provisions should be included in the final RME Programs authorized for use by PECO Energy Company.

See PECO DSP II, Docket No. P-2012-2283641, Reconsideration Order at 15-16 (Nov. 21, 2012). The matter was considered, and no consensus was reached on cost recovery at the collaborative.

III. CONCLUSION

The Office of Consumer Advocate appreciates the opportunity to submit these Comments. The OCA respectfully requests the Commission to consider the discussion herein, as it reaches a final determination as to the provision of retail market enhancement programs within the PECO service territory.

Respectfully submitted,



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Dated: December 26, 2012
163912

CERTIFICATE OF SERVICE

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

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

Dated this 26th day of December 2012.

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