



COMMONWEALTH OF PENNSYLVANIA  
OFFICE OF SMALL BUSINESS ADVOCATE

January 7, 2013

**E-FILED**

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

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

Dear Secretary Chiavetta:

Enclosed for filing are the Reply Comments, on behalf of the Office of Small Business Advocate, in the above-docketed proceeding. As evidenced by the enclosed certificate of service, two copies have been served on all active parties in this case.

If you have any questions, please contact me.

Sincerely,

A handwritten signature in cursive script that reads "Elizabeth Rose Triscari".

Elizabeth Rose Triscari  
Assistant Small Business Advocate  
Attorney ID #306921

Enclosures

cc: Parties of Record

Brian Kalcic

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**PETITION OF PECO ENERGY COMPANY :  
FOR APPROVAL OF ITS DEFAULT : Docket No. P-2012-2283641  
SERVICE PROGRAM :**

**REPLY COMMENTS OF THE  
OFFICE OF SMALL BUSINESS ADVOCATE  
ON PECO'S REVISED DEFAULT SERVICE PLAN COMPLIANCE FILING**

**I. INTRODUCTION AND BACKGROUND**

On October 12, 2012, the Pennsylvania Public Utility Commission (“Commission”) entered an Opinion and Order (“DSP II Order”) regarding the Default Service Program of PECO Energy Company (“PECO” or the “Company”) for the period from June 1, 2013 to May 31, 2015.

The DSP II Order directed PECO to file a revised plan consistent with the Commission’s revisions directed in the DSP II Order and to submit proposals, in collaboration with electric generation suppliers (“EGSs”) and other interested parties, addressing certain limited issues regarding PECO’s retail market enhancement programs (“RME Programs”).

Specifically, the DSP II Order directed PECO to submit, in collaboration with other interested parties: (1) a proposal regarding EGS selection, customer assignment, and the role of the independent monitor for the revised Opt-In Program; (2) a proposal regarding form application and form requirements for EGSs who participate in the Opt-In Competitive Offer Program (“Opt-In Program”) and the “Standard Offer Program” (the “EGS Applications and Form Agreements”); and (3) a proposal for recovery of RME Program costs.

On October 28, 2012, the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (“CAUSE-PA”), Tenants Union Representative Network (“TURN”) and Action Alliance of Senior Citizens of Greater Philadelphia (together, “CAUSE-PA/TURN”) filed a Joint Petition for Clarification (“CAUSE-PA/TURN Clarification Petition”).

The Company filed a Petition for Clarification and Reconsideration on October 31, 2012 (“PECO Clarification Petition”). Certain parties filed answers to the PECO Clarification Petition addressing the issues raised by PECO. The Commission subsequently entered an Opinion and Order on November 21, 2012 (“Clarification Order”) in response to the CAUSE-PA/TURN Clarification Petition and the PECO Clarification Petition.

The Clarification Order, among other things, clarified that parties should consider the possibility that customers, in addition to EGSs, may be responsible for at least some RME Program Costs.

Pursuant to the DSP II Order and Clarification Order, the Company engaged in collaborative discussions with interested stakeholders, a process in which the Office of Small Business Advocate (“OSBA”) was an active participant. Consensus among the parties was generally achieved regarding certain issues with respect to the Opt-In Program, such as, EGS participation, customer assignment, and the lack of need for an independent monitor. Although some progress was made, a consensus was not achieved regarding the final form of the EGS Applications and Form Agreements. Similarly, the parties did not agree on whether (or what portion) customers should contribute toward RME Program Costs.

On December 11, 2012, the Company submitted its Revised Default Service Plan Compliance Filing (“Revised Plan”), which reflects all of the revisions directed by the DSP II Order and Clarification Order as well as the revisions agreed to by the collaborative participants

with respect to the Opt-In Program and Standard Offer Program. For those issues on which the collaborative participants did not agree, PECO included its own proposals for the Commission's consideration, which are consistent with the Company's original DSP II filing.

PECO's Revised Plan proposed a schedule for its review by interested parties, requesting that comments be filed on December 27, 2012 and reply comments on January 7, 2012.

Comments were timely filed by the OSBA, the Office of Consumer Advocate ("OCA"), Interstate Gas Supply, Inc. and Dominion Retail, Inc. ("Dominion/IGS"), FirstEnergy Solutions Corp. ("FES"), and Retail Energy Supply Association ("RESA"). The OSBA submits the following reply comments to the comments of Dominion/IGS, FES, and RESA (collectively, the "EGS Parties") with respect to recovery of the costs of PECO's Opt-In Program and Standard Offer Program.

## **II. REPLY COMMENTS**

1. The EGS Parties each advocate that customers share in RME Program cost recovery.<sup>1</sup> However, the Commission has consistently directed that such costs be recovered from EGSs.<sup>2</sup> In this proceeding, the Commission has *not* directed that customers *must* share in RME program costs, but only that parties *consider the possibility* that there might be some

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<sup>1</sup> Dominion/IGS Comments at 2; FES Comments at 2; RESA Comments at 4.

<sup>2</sup> DSP II Order at Ordering ¶14; *Investigation of Pennsylvania's Retail Electricity Market: Intermediate Work Plan*, Docket No. I-2011-2237952, (Final Order entered March 2, 2010) at 78, 84-85 ("Intermediate Work Plan Final Order"); *Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company For Approval of Their Default Service Programs*, Docket Nos. P-2012-2273650, *et al.*, (Opinion and Order entered August 12, 2012) at 136-37, Ordering ¶12

scenario or set of facts that would warrant limited recovery of costs from customers in addition to EGSs.<sup>3</sup>

### **Opt-In Program Cost Recovery**

2. With respect to PECO's Opt-In Program, the relatively low cost (approximately \$1.00 per customer *assigned*) should be recovered solely from participating EGSs. Pursuant to the Revised Plan, this cost will be fixed and known prior to any EGS choosing to participate. Given the *de minimus* nature of the costs of the program, EGSs cannot reasonably argue that recovering the costs of the Opt-In Program solely from EGSs would discourage participation. Moreover, only *participating* EGSs, *i.e.*, those that are benefiting from the program, will be required to pay. Notably, Dominion/IGS has determined that the Opt-In Program costs are reasonable (even on a cost per customer *acquired* basis) and assert that suppliers should be willing to participate and pay those costs in full.<sup>4</sup> There is simply no compelling reason to require customers to share in the Opt-In Program costs.

### **Standard Offer Program Cost Recovery**

3. Despite the fact that EGSs have consistently advocated for a Standard Offer Program throughout the Retail Market Investigation and in this proceeding, the EGS Parties are unwilling to accept any proposal in which EGSs are solely responsible for the costs. The EGS Parties refuse to accept PECO's proposal, whereby *all* EGSs would pay for the Standard Offer Program through a POR discount. The EGS Parties argue that this proposal would require participating EGSs to subsidize non-participating EGSs. However, the EGS Parties also argue against

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<sup>3</sup> See Clarification Order at 15-16.

<sup>4</sup> Dominion/IGS Comments at 3. Unlike the Opt-In program, Dominion/IGS does not agree that EGSs would be willing to participate in the Standard Offer Program if they were required to contribute 100% of the costs.

recovering Standard Offer Program costs solely from participating EGSs, because it would be far too expensive and thus would discourage participation and doom the program to fail. The EGS Parties conclude that the only way for this program to succeed would be to recover costs from customers, e.g., customers pay 100% of the costs (RESA), split the costs 50/50 (Dominion/IGS, RESA), or establish a known cap on participating EGS costs with customers paying for any amount remaining (FES).

The OSBA disagrees with the EGS Parties. PECO's proposal to recover the costs of the Standard Offer Program from all EGSs through a POR discount is reasonable since it would spread out the costs over all EGSs, thereby alleviating the potentially heavy burden of recovering costs solely from participating EGSs. Moreover, PECO's proposal would give all EGSs an incentive to participate in the Standard Offer Program because they would be contributing to program costs.

4. The Commission has made it clear that EGSs should be solely, or at least primarily, responsible for RME Program Costs. In the Clarification Order, the Commission reaffirmed its belief expressed in the Intermediate Work Plan Final Order that "*most* RME Program costs should be the responsibility of the EGSs."<sup>5</sup> In the Intermediate Work Plan Final Order, the Commission stated that "*the bulk of* the costs, including the costs of maintaining the referral programs once they are put into place, should be the responsibility of the participating EGSs."<sup>6</sup>

RESA's suggestion that customers should pay 100% of RME Program costs is a disingenuous attempt to re-litigate the already decided issue of cost recovery. The Commission should reject it. Similarly, RESA's alternative recommendation that EGSs and customers share the costs equally (also proposed by Dominion/IGS) is not consistent with the Commission's clear

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<sup>5</sup> Clarification Order at 16 *citing* Intermediate Work Plan Final Order at 32 and 84.

<sup>6</sup> Intermediate Work Plan Final Order at 32 (emphasis added).

directive (that EGSs should be primarily, if not solely, responsible for RME Program costs) and should also be rejected. In apparent contrast, FES proposes that the RME Program costs paid by EGSs be capped and made known prior to participation, and that a mechanism for *limited* sharing of costs with customers be implemented.<sup>7</sup>

Although unnecessary with respect to the Opt-In Program, where PECO has already proposed that the modest program costs be capped and known prior to participating, FES's proposal is the only one put forth by the EGS Parties that has the potential to ensure that EGSs are *primarily* responsible for the costs of the Standard Offer Program, consistent with the Commission's directives. If the Commission determines that eligible customers should be required to contribute toward a portion of the costs of the Standard Offer Program, it should adopt FES's proposal, with the cap on EGS costs set so that EGSs would be responsible for at least 75% of the Standard Offer Program costs.

5. The OSBA acknowledges that the cost of the Standard Offer Program is significantly higher than the Opt-In Program and may render the program economically unfeasible. If the cost of the Standard Offer Program exceeds the typical cost incurred by EGSs to acquire customers, the program is inefficient, *i.e.*, EGSs could be expected to acquire more customers spending the same amount of money in a different way. If the program is deemed inefficient, then the OSBA agrees that it should be abandoned, as suggested by Dominion/IGS.

#### **Small Business Customer Standard Offer Program Eligibility**

6. On pages 14-15 of its comments, RESA advocates that the Commission make small business customers (under 25 kW) eligible for the Standard Offer Program. The OSBA reaffirms its position that the Commission should deny RESA's Petition for Reconsideration *Nunc Pro Tunc* or for Amendment of the Commission's Opinion and Order of October 12, 2012,

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<sup>7</sup> FES Comments at 6.

recommending that PECO's small business customers (under 25kW) be made eligible for the Standard Offer Program. As more fully explained in the OSBA's Answer to RESA's Petition, RESA raised this issue, ambiguously at best, for the first time in Exceptions.<sup>8</sup> Thus, there is no record in support of RESA's recommendation. Adopting RESA's unsupported and untimely recommendation would result in a gross denial of the due process owed to the other parties.

### III. CONCLUSION

In view of the foregoing and the OSBA's initial comments, the OSBA respectfully requests that the Commission approved PECO's Revised Plan without modification.

Respectfully submitted,



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Dated: January 7, 2013

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<sup>8</sup> See OSBA Answer to RESA's Petition for Reconsideration *Nunc Pro Tunc* or for Amendment of the Commission's Opinion and Order of October 12, 2012, filed on December 27, 2012.

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

**CERTIFICATE OF SERVICE**

I certify that I am serving two copies of the Reply Comments, on behalf of the Office of Small Business Advocate, by e-filing, e-mail, and/or first-class mail (unless otherwise noted) upon the persons addressed below:

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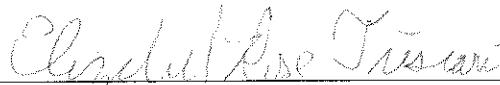
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