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January 7, 2013

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

VIA ELECTRONIC FILING

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

Dear Secretary Chiavetta:

Please find enclosed for filing with the Pennsylvania Public Utility Commission ("PUC" or "Commission") the Reply Comments of the Philadelphia Area Industrial Energy Users Group ("PAIEUG") in the above-referenced proceeding.

As evidenced by the attached Certificate of Service, all parties to the proceeding are being served with a copy of this document. Thank you.

Sincerely,

McNEES WALLACE & NURICK LLC

By

A handwritten signature in black ink, appearing to read 'Charis Mincavage', is written over a horizontal line. Below the signature, the name 'Charis Mincavage' is printed in a standard font.

Charis Mincavage

Counsel to the Philadelphia Area Industrial Energy Users Group

/lmc

Enclosures

c: Administrative Law Judge Dennis J. Buckley (via E-mail and First Class Mail)
Certificate of Service

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CERTIFICATE OF SERVICE

I hereby certify that I am this day serving a true copy of the foregoing document upon the participants listed below in accordance with the requirements of Section 1.54 (relating to service by a participant).

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Dated this 7th day of January, 2013, in Harrisburg, Pennsylvania.

**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
PHILADELPHIA AREA INDUSTRIAL ENERGY USERS GROUP**

I. INTRODUCTION

On October 12, 2012, the Pennsylvania Public Utility Commission ("PUC" or "Commission") issued an Opinion and Order directing PECO Energy Company ("PECO" or "Company"), in part, to collaborate with electric generation suppliers ("EGSs") in developing the terms for PECO's new retail market enhancement ("RME") programs that will be part of PECO's new default service plan ("DSP").¹ Specifically, the PECO Order directed the Company to collaborate with stakeholders and develop a proposal "regarding how EGSs will pay for the costs of the [RME] Programs as modified by this Opinion and Order."²

In response to Petitions for Clarification and/or Reconsideration, the Commission issued an Opinion and Order on November 21, 2012, (hereinafter, "PECO Reconsideration Order") finding no inconsistency in the October 12 Order's directive regarding cost recovery for RME.³

¹ *Petition of PECO Energy Company For Approval of its Default Service Program II* (hereinafter, "PECO DSP II"); Docket No. P-2012-2283641, Opinion and Order (Oct. 12, 2012), p. 148 (hereinafter, "PECO Order").

² *Id.* at Ordering ¶ 14. This directive is consistent with the Commission's holding in its Intermediate Work Plan, which concluded that EGSs should be responsible for RME program costs. *See Investigation of Pennsylvania's Retail Electricity Market, Intermediate Work Plan*, Docket No. I-211-2237952, Order (Mar. 2, 2012), pp. 32, 78 (hereinafter "RMI Order").

³ *Petition of PECO Energy Company for Approval of its Default Service Program*; Docket No. P-2012-228364, Opinion and Order (Nov. 21, 2012), p. 17.

Specifically, the PECO Reconsideration Order held that parties must consider "the possibility" that customers "may" be responsible for some RME program costs in the collaborative process.⁴ Following several collaborative meetings among stakeholders related to RME cost recovery and program design, PECO submitted its revised DSP to the Commission on December 11, 2012 ("Revised DSP").

In response to the Revised DSP, the following parties filed Comments on December 27, 2012: the Retail Energy Supply Association ("RESA"); Interstate Gas Supply, Inc., and Dominion Retail, Inc. (collectively, "EGS Parties"); First Energy Solutions Corp. ("FES"); the Office of Consumer Advocate ("OCA"); and the Office of Small Business Advocate ("OSBA").⁵ Pursuant to the procedural schedule requested by PECO in the Revised DSP, the Philadelphia Area Industrial Users Group ("PAIEUG") hereby submits these limited Reply Comments in response to the requests of RESA, FES, and the EGS Parties to impose equal cost sharing for RME programs between EGSs and "customers."⁶ In agreement with the OCA, PAIEUG supports the Revised DSP's proposal to allocate all RME program costs to EGSs, as they are the primary beneficiaries of such programs. If, however, an alternative cost allocation proposal is considered, the Commission should reject any proposal to collect RME program costs from ineligible customer classes, specifically Large Commercial and Industrial ("C&I") customers.

⁴ *See id.*

⁵ In the Revised DSP, PECO proposed a schedule for review and comments by interested parties. The Commission has not formally acted on PECO's proposed schedule. *See PECO DSP II*, Revised Default Service Plan, Compliance Filing & Exhibits (Dec. 11, 2012), p. 12.

⁶ *PECO DSP II*, Retail Electric Supply Association Comments to Revised Default Service Plan Compliance Filing Dated December 11, 2012 (Dec. 27, 2012), p. 4 (hereinafter "RESA Comments"); Comments of Interstate Gas Supply, Inc., and Dominion Retail, Inc. to Compliance Filing (Dec. 27, 2012), p. 2 (hereinafter "EGS Parties Comments"); Comments of FirstEnergy Solutions Corp. on PECO Energy Company's Revised Default Service Plan Compliance Filing & Exhibits (Dec. 27, 2012), p. 6 (hereinafter "FES Comments").

II. REPLY COMMENTS

A. PECO's Proposal To Collect All RME Costs from EGSs Is Consistent with Commission Precedent.

Although RESA and the EGS Parties submit that RME costs should be divided between EGSs and distribution customers, both Commission precedent and cost causation principles require rejection of such a cost allocation proposal. Rather, as set forth herein, PECO's proposal, which appropriately assigns these costs to the benefitting EGSs, should be adopted as the more appropriate cost collection mechanism.

RESA's Comments urge the Commission to reject PECO's request to assign 100% of RME program costs to EGSs, arguing that the proposal is unreasonable and would discourage EGS participation if adopted. RESA sets forth an alternative cost allocation approach that would divide RME program costs between "distribution customers" and EGSs to generate greater interest among EGSs in the programs.⁷ Similarly, the EGS Parties' Comments support a cost sharing approach between suppliers and "customers" in order to facilitate a robust market for electricity supply.⁸

Although the PUC acknowledged in the PECO Reconsideration Order that the "possibility" could exist for a division of cost responsibility, RESA and the EGS Parties have not presented any arguments that would render this division of costs appropriate for purposes of this proceeding. Rather, RESA's proposed RME cost recovery from customers must be rejected as inconsistent with Commission precedent. PAIEUG acknowledges that the Commission denied PECO's request for clarification that the costs of the RME programs are to be recovered from EGSs only; however, the Commission specifically stated that the purpose of the collaborative process was to "consider the possibility" of cost sharing for RME programs, not to

⁷ See RESA Comments, p. 9.

⁸ See EGS Parties Comments, p. 2.

mandate such an outcome.⁹ Furthermore, as part of the retail markets investigation, the Commission, encouraging EDCs to implement RME programs, has recognized that costs of these programs should be primarily borne by the EGSs "reaping the possible customer acquisition benefits."¹⁰ Parties' failure to reach an agreement on joint customer/EGS cost recovery within PECO's collaborative does not alter this prior Commission precedent.

As the Comments submitted by the OCA make clear, EGSs are the primary beneficiaries of the RME programs and should therefore bear the costs associated with implementation of those programs.¹¹ Upon introduction of RME programs, EGSs will experience an immediate increase in customer base and profit. Customers, particularly those who cannot or choose not to participate, will receive no similar benefit. As such, customers should not be assigned any portion of the resulting costs.

Consistent with the foregoing Commission precedent, PAIEUG supports PECO's proposal to collect all RME program costs from EGSs and urges the Commission to adopt PECO's Revised DSP proposal with respect to RME cost recovery.

B. If The Commission Adopts a Cost-Sharing Approach for RME Programs, Large C&I Customers Should Be Exempt.

As an alternative to PECO's RME cost allocation proposal, RESA requests that the Commission order the costs of RME programs to "be shared equally between EGSs and distribution customers."¹² The Commission is further urged to establish an initial "per customer" cost for the first year of the programs, with EGSs remitting half of these costs in order to participate, and the Company recovering the remaining costs "from distribution customers via a

⁹ See PECO Reconsideration Order, p. 16.

¹⁰ RMI Order, p. 78.

¹¹ See *PECO DSP II*, Comments of the Office of Consumer Advocate (Dec. 27, 2012), pp. 5-6 (hereinafter "OCA Comments").

¹² RESA Comments, p. 9.

surcharge."¹³ Because RESA's Comments are not explicitly clear as to whether **all** customers should be subject to the surcharge or whether this surcharge should be applied only to those customers eligible for the RME programs, PAIEUG submits that, in the event RESA believes the surcharge should be applied to all customers, this proposal must be rejected as unjust, unreasonable, and inappropriately discriminatory.

As discussed above, PAIEUG opposes any RME cost collection from customers. If, however, the Commission is persuaded to divide RME program costs between customers and EGSs, PAIEUG submits that no such costs should be collected from Large C&I customers. Large C&I customers are ineligible for PECO's RME programs, thereby rendering recovery of these costs from these customers to be unjust, unreasonable, and inconsistent with cost causation principles. Specifically, PECO should not be required to recover costs from customers that are ineligible to participate in such programs.¹⁴ In addition to eligibility exclusions, Large C&I customers have already achieved significant shopping levels obviating the need for RME programs. Their participation in RME programs would not contribute to the development of robust competitive markets envisioned by the Commission.¹⁵

Given Large C&I customers' ineligibility for participation in RME programs, and in light of these customers' sophisticated nature and current shopping levels, the Commission should reject any proposal to collect RME program costs from Large C&I customers.

¹³ *Id.*

¹⁴ Although FES's Comments support cost sharing for RME programs, FES recognizes that these costs should be borne only by those customer classes "eligible to participate." *See* FES Comments, p. 6.

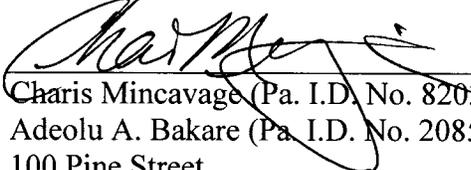
¹⁵ *See* RMI Order, p. 3.

III. CONCLUSION

WHEREFORE, the Philadelphia Area Industrial Energy Users Group respectfully requests that the Pennsylvania Public Utility Commission consider and adopt, as appropriate, the foregoing Reply Comments.

Respectfully submitted,

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