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JAN 7 2013

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

January 7, 2013

VIA OVERNIGHT DELIVERY

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
P.O. Box 3265
Harrisburg, PA 17105-3265

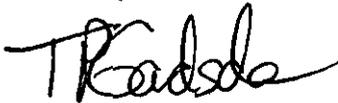
Re: Petition of PECO Energy Company for Approval of Its Default Service Program
Docket No. P-2012-2283641

Dear Secretary Chiavetta:

Enclosed for filing are the **Reply Comments of PECO Energy Company Regarding Its Revised Default Service Plan Compliance Filing** in the above-captioned proceeding ("Reply Comments").

As indicated on the attached Certificate of Service, copies of this letter and the Reply Comments are being served on the Administrative Law Judge and all parties of record.

Sincerely,



Thomas P. Gadsden

TPG/ap
Enclosures

c: Per Certificate of Service

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JAN 7 2013

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

PETITION OF PECO ENERGY COMPANY :
FOR APPROVAL OF ITS DEFAULT : DOCKET NO. P-2012-2283641
SERVICE PROGRAM :

REPLY COMMENTS OF PECO ENERGY COMPANY
REGARDING ITS REVISED DEFAULT SERVICE PLAN COMPLIANCE FILING

I. INTRODUCTION

Pursuant to the October 12, 2012 Opinion and Order (“PECO DSP II Order”) entered by the Pennsylvania Public Utility Commission (the “Commission”) in this proceeding, which approved its proposed Default Service Program for the period from June 1, 2013 to May 31, 2015 (“DSP II”) with modifications, PECO Energy Company (“PECO” or the “Company”) filed its Revised Default Service Plan Compliance Filing (“Revised Plan”) on December 11, 2012.¹ The PECO DSP II Order directed PECO to submit proposals, in collaboration with electric generation suppliers (“EGSs”) and other interested parties, addressing several Retail Market Enhancement (“RME”) Program issues.²

PECO’s DSP II proposed a variety of retail market enhancements in accordance with the orders of the Commission in its Investigation of Pennsylvania’s Retail Electricity Market (the

¹ As PECO stressed in the Revised Plan, it is essential that the Commission approve the Revised Plan by January 24, 2013, so that PECO will have sufficient time to implement the Opt-In Program and PECO’s second default service procurement, which is scheduled for January 2013.

² In response to petitions filed by the Company and the Pennsylvania Coalition for Affordable Utility Services and Energy Efficiency, the PECO DSP II Order was clarified by a subsequent Commission Order (the “Clarification Order”) entered on November 21, 2012: (1) permitting PECO’s default service procurement to proceed; (2) allowing proposals regarding RME Program form agreements to be filed on December 11, 2012; (3) clarifying that parties should consider the possibility that customers as well as EGSs may be responsible for some RME Program costs; and (4) clarifying that EGSs must file the terms and conditions for their eight-month Opt-In Program product at least forty-five days before the offers for that eight-month product are made to customers. See Clarification Order, pp. 15, 32-33.

“Retail Markets Investigation”),³ including an EGS Opt-In Competitive Offer Program (“Opt-In Program”) and an EGS Standard Offer Program (“SOP”) (collectively, the “RME Programs”). In the PECO DSP II Order, the Commission granted, in part, the Exception of the Retail Energy Supply Association (“RESA”) and directed the Company to include small commercial customers with annual peak loads less than 25 kW (“Small Business Customers”) in the Opt-In Program. *Id.*, pp. 85-86. The Commission further directed PECO to revise the composition of the Opt-In Program product to a twelve-month product with a fifty dollar bonus, a four-month guaranteed 5% discount off the Price-to-Compare (“PTC”) at the time of enrollments, and an EGS-provided fixed price for the remaining eight months. *Id.*, pp. 90-91. The Commission also identified several items for the Company to discuss with interested parties, including: (1) the role of the independent monitor and the selection of winning EGSs and associated customer assignment; (2) the terms and conditions of the Opt-In Program Request for Proposals and Program Rules (“Opt-In Rules”); and (3) cost recovery.

The Commission generally approved the design of PECO’s SOP as consistent with the guidance provided in the Commission’s *Intermediate Work Plan Order*, but directed PECO to discuss the following issues with interested parties: (1) the terms and conditions of the EGS Standard Offer Program Request for Proposals and Program Rules (“Standard Offer Rules”); and (2) cost recovery for the program. *See id.*, pp. 114, 116, 118-119, 121, 124, 148-149.

In DSP II, PECO proposed to recover RME Program costs from the EGSs that benefit from those programs. Specifically, PECO proposed to recover Opt-In Program costs directly from participating EGSs, in proportion to the number of customers allocated to each EGS, with

³ These orders include *Investigation of Pennsylvania’s Retail Electricity Market: Recommendations Regarding Upcoming Default Service Plans*, Docket No. I-2011-2237952 (Order entered December 16, 2011) (“*Default Service Recommendations Order*”) and *Investigation of Pennsylvania’s Retail Electricity Market: Intermediate Work Plan* (Order entered March 2, 2012) (“*Intermediate Work Plan Order*”).

any costs that cannot be recovered from participating EGSs recovered through a 0.3% discount on receivables purchased from all EGSs using PECO's existing purchase of receivables ("POR") program. With respect to the SOP, PECO proposed to recover all costs through the POR discount. In the PECO DSP II Order, the Commission directed PECO to coordinate with EGSs and other interested parties "to resubmit a plan or proposal...addressing how participating EGSs or customers will pay for the costs of market enhancements approved in this DSP Proceeding." *See id.*, pp. 148, 155.

On November 27, 2012 and December 3, 2012, PECO convened collaborative meetings with interested parties to discuss the RME Program issues assigned by the PECO DSP II Order and held additional collaborative discussions on December 6, 2012. In the course of these collaboratives, PECO and the participating parties reached consensus on a number of issues relating to the Opt-In Program, including mechanisms for EGS participation and allocation of eligible customers to EGSs as well as the elimination of the need for an independent monitor for the Opt-In Program. However, despite extensive discussions, no consensus was reached with respect to the final form of the Opt-In and Standard Offer Rules nor whether any costs of the RME Programs should be allocated to customers instead of requiring EGSs to pay all such costs.

Consistent with the PECO DSP II Order, the Commission's directives regarding Opt-In Program eligibility and the composition of the Opt-In product, along with recommendations developed by the collaborative participants are incorporated in PECO's revised Opt-In and Standard Offer Rules. Specifically, revisions generated by the collaborative participants include:

- Elimination of the independent monitor from the Opt-In Program since EGSs would no longer be competing for eligible customers through price offerings and all qualified EGSs can participate;⁴

⁴ *See Revised Plan, Exh. D (Revised EGS Opt-In Competitive Offer Program Request for Proposals and Program Rules)*, Art. 5.

- Allowing participating EGSs to establish a maximum number of residential customers and/or maximum number of small commercial customers that an EGS would like to be assigned under the Opt-In Program;⁵
- Extension of the time for EGSs to complete bonus payments under the Opt-In Program;⁶
- Streamlined qualification process for both the Opt-In Program and SOP;⁷ and
- More expansive publicity provisions for EGSs participating in either program (as reflected in the Opt-In and Standard Offer Rules).⁸

Because the collaborative participants were unable to reach consensus on the allocation of any RME Program costs to customers, PECO maintains its original cost recovery proposals for the Opt-In Program and SOP. However, PECO has agreed to provide a “not to exceed” per-customer cost to EGSs that have applied to participate in the Opt-In Program prior to the assignment of customers. Within five days of receiving that “not to exceed” cost, EGSs who do not wish to participate can notify PECO and withdraw without paying any per customer charges.⁹ In addition, PECO has proposed a provision for inclusion in its Electric Generation Supplier Coordination Tariff (“Supplier Tariff”) to permit PECO to reduce the amount due to an EGS under PECO’s POR program by any unpaid amount the EGS owes to PECO for its participation in the Opt-In Program or SOP. This addition will help ensure that each EGS participating in the program pays its share of program costs.¹⁰

PECO also proposed a schedule to provide an opportunity to file comments and reply comments regarding the Company’s Revised Plan by December 27, 2012 and January 7, 2013,

⁵ See *id.*, Exh. D, ¶¶ 1.4, 4.2.

⁶ See Revised Plan, Exh. D, ¶ 7.5.

⁷ See generally Revised Plan, Exhs. D and E (Revised EGS Standard Offer Program Request for Proposals and Program Rules).

⁸ See *id.*, Exh. D, ¶ 8.8, Exh. E, ¶ 6.8.

⁹ See *id.*, Exh. D, ¶¶ 2.1, 4.1.

¹⁰ See Revised Plan, Exh. G (Revised Electric Generation Supplier Coordination Tariff Page No. 92).

respectively.¹¹ Pursuant to that proposed schedule, on December 27, 2012, FirstEnergy Solutions Corp. (“FES”), Interstate Gas Supply, Inc. and Dominion Retail, Inc. (collectively, “Dominion”), the Office of Consumer Advocate (“OCA”), the Office of Small Business Advocate (“OSBA”), and RESA filed Comments on the RME Program aspects of the Revised Plan.¹² PECO now submits these reply comments to respond to the issues raised by Dominion, FES and RESA.¹³

II. SUMMARY OF POSITION

The central issue before the Commission is who should pay the costs of the RME Programs. PECO believes that its original DSP II proposal, in which all program costs are the responsibility of EGSs, is appropriate in light of the fact that the RME Programs generate *significant immediate benefits for EGSs in the form of new customers without EGSs otherwise paying costs to acquire those customers.* In their Comments, RESA, Dominion and FES have all proposed their own cost recovery approaches. These approaches shift cost responsibility away from EGSs to customers and also expose PECO to substantial risk of not recovering the costs it will have incurred on behalf of EGSs for the express purpose of implementing the Commission directives in the PECO DSP II Order to establish and administer those programs. The Commission should reject the alternatives offered by RESA, Dominion, and FES to ensure that

¹¹ Revised Plan, pp. 12-13.

¹² As explained in the Revised Plan, PECO incorporated all of the revisions regarding default service procurement and rate design set forth and made final by the PECO DSP II Order, as clarified by the Commission. *See* Revised Plan, ¶5 (pp. 3-4) & Exhs. A (Revised Procurement Schedule), B (Revised Default Service Program Supply Master Agreement), C (Revised Default Service Plan Request for Proposals) and F (Revised Electric Tariff Page Nos. 31-35A). No party submitted any Comments regarding procurement or rate design issues.

¹³ The OCA’s Comments supported PECO’s revised RME Program proposals and emphasized various customer protections contained in the Opt-In and Standard Offer Programs. Likewise, the OSBA generally supported the Revised Plan and agreed with PECO that the Opt-In Program costs should be recovered entirely from participating EGSs, particularly in light of the low projected costs (i.e., \$1.00 per customer mailing). *See* OSBA Comments, pp. 3-5. Accordingly, PECO is not responding to the OCA’s or OSBA’s Comments.

customers are not responsible for the costs of RME programs and PECO obtains full and current cost recovery for the RME Programs.

In the Revised Plan, PECO is proposing to recover all costs to implement the Opt-In Program from participating EGSs through a per-customer charge based on the number of customers allocated to each EGS, subject to a “not-to-exceed” cap. PECO proposes to recover Opt-In Program costs through the POR discount only if those costs cannot be recovered from participating EGSs. Even RESA and Dominion agree that the estimated implementation costs of this one-time program are minimal (i.e., approximately \$1.00 per customer offer mailing).¹⁴ In light of this and PECO’s agreement to provide an actual “not-to-exceed” per customer mailing cost to EGSs to permit EGSs to withdraw from the program before customers are assigned, there should be no significant dispute regarding PECO’s proposal for EGSs to bear the cost of the Opt-In Program.

Throughout this proceeding, PECO has estimated more than \$2 million in start-up costs for information technology changes necessary to implement the SOP. In addition, PECO’s testimony made clear that it expects to incur another \$900,000 per year of ongoing operational costs for call center support. No party has presented evidence demonstrating that the level of costs proposed by PECO exceed the cost of acquiring customers through EGS marketing or would otherwise discourage EGSs from participating in the SOP.

Nonetheless, RESA and the EGSs continue to resist responsibility for RME Program costs and strongly oppose the use of the POR discount to allocate any costs to EGSs. As the Commission has made clear in this proceeding and the default service proceedings of other electric distribution companies (“EDCs”), EGSs are the primary beneficiaries of customer

¹⁴ See RESA Comments, p. 9 (agreeing that approximately \$1 per mailing is “not unreasonable”); Dominion Comments, p. 3 (stating that “suppliers should be willing to participate” at a \$1-2 per customer costs level).

referral programs and therefore should pay for those programs.¹⁵ To that end, PECO's proposal recovers costs of the SOP from EGSs who benefit the most from the competitive market in PECO's territory, as reflected by their use of PECO's well-established POR program. RESA, Dominion and FES simply reiterate their arguments raised in their briefs against use of the POR discount.

The Commission should note that this would not be the first time that PECO would implement a POR discount to recover the cost of a program designed to enhance the retail marketplace. In 2011, PECO implemented a POR discount of similar magnitude (i.e., 0.2%) to recover the administrative costs of the POR program with Commission approval. In fact, PECO experienced a surge in EGS participation in PECO's service territory from January 2011 to March 2012 when the original POR discount was in effect. It is implausible that introducing a 1/1000 increase to the POR discount (i.e., going from 0.2% to 0.3%) would have any measurable impact on EGS participation in the PECO service territory.

III. REPLY COMMENTS

A. Reply To RESA's, Dominion's And FES' Objections To The Use Of The POR Discount To Recover Costs From EGSs

In its Comments (pp. 12-14), RESA reiterates its position that use of the POR discount to allocate any RME Program costs to EGSs is inappropriate and may pose a significant barrier to EGS participation in both programs. Dominion and FES also oppose the use of the POR discount and reassert the arguments against PECO's proposal set forth in their DSP II briefs. Dominion Comments, pp. 2-4; FES Comments, pp. 2-5. The Intervenors' Comments should be rejected for several reasons.

¹⁵ PECO DSP II Order, p. 148; *see also Joint Petition of Metropolitan Edison Co., Pennsylvania Elec. Co., Pennsylvania Power Co. and West Penn Power Co. For Approval of Their Default Service Programs*, Docket No. P-2011-2273650 *et al.*, pp. 136, 157, 160 (Order entered August 16, 2012).

First, the assertion by RESA and the other EGSs that recovery of RME Program costs through the POR may have an adverse effect on EGS interest in PECO's service territory is entirely speculative, without any supporting evidence from any EGSs stating that they would choose not to enter or would leave PECO's territory. The original POR discount of 0.2% was imposed on EGSs to pay for the costs of implementing the POR program, a retail market enhancement available to all EGSs.¹⁶ Significantly, EGS participation in PECO's service territory expanded rapidly during the time that the discount was in effect (January 2011 to March 2012). Therefore, it is unlikely that a small increase in the level of the POR discount to recover the cost of additional retail market enhancements would suddenly cause EGSs to drop out of the POR program and exit PECO's service territory.

RESA, Dominion and FES also contend that recovering RME Program costs through the POR discount would require EGSs with a greater market share earned outside of RME Programs to pay more. RESA Comments, pp. 13; Dominion Comments, p. 3; FES Comments, p. 4. However, as PECO's testimony in this proceeding made clear, all EGSs have the opportunity to participate in the RME Programs. PECO St. No. 5-R, p. 13. In addition, the RME Programs are designed to encourage customers to shop and expand EGS market share.

In short, RESA and the EGSs have failed to demonstrate that use of the POR discount would actually deter EGSs from participating in the RME Programs or doing business in PECO's service territory. Any concern that the POR discount may be a significant barrier to EGS participation is largely undercut by the fact that EGS activity in PECO's service territory surged during the time that a similar POR discount was in effect.

¹⁶ Once the costs of implementation were recovered, the discount was eliminated in March 2012. *See* Supplier Tariff, Third Revised Page No. 92 (revising POR discount from 0.2% to 0.0% as a result of the completion of recovery of the POR program implementation costs).

B. Reply To RESA's Arguments

RESA's comments address three areas: (1) RME Program cost recovery; (2) the structure of the RME Programs, including customer eligibility for the SOP; and (3) the Opt-In and Standard Offer Rules.

1. RESA's Alternative Proposal for Cost Recovery

In its Comments, RESA contends that PECO's proposal to recover Opt-In and Standard Offer Program costs exclusively from EGSs is inappropriate because retail market initiatives benefit customers and because the allocation of all of the costs to EGSs is likely to "severely" limit EGS participation in the RME Programs. RESA Comments, pp. 5-6. To address its concerns, RESA offers an alternative cost recovery approach whereby RME Program costs would be "shared equally" between EGSs and distribution customers. RESA Comments, p. 9.

Under RESA's proposal, PECO would submit a detailed projection of implementation and ongoing costs it expects to incur for both the Opt-In and Standard Offer Programs. EGSs would then be responsible for half of such costs for the first program year, subject to a ceiling of \$1.00 per customer for the Opt-In Program and \$30.00 per customer for the SOP. PECO could then recover the balance of the estimated RME Program costs from distribution customers through a non-bypassable surcharge. However, if actual implementation and ongoing costs exceeded PECO's estimates, PECO would be required to seek recovery of those "excess" costs in a future base rate proceeding, subject to an unprecedented standard of review where the Commission would determine whether the previously approved RME Programs were "designed to achieve the greatest success at the lowest, reasonable cost." RESA Comments, p. 9. RESA's proposal is flawed for several reasons.

In the DSP II Order, the Commission made it abundantly clear that it believes that EGSs should be responsible for RME Program costs. PECO DSP II Order, p. 148. Thereafter, in its

Clarification Order (pp. 15-16), the Commission noted that it did not intend to preclude the recovery of some costs from participating customers. However, while RESA continues to assert that all customers will generally benefit from the RME Programs, it has not demonstrated that such alleged benefits justify charging customers for what amounts to an EGS marketing expense. Similarly, RESA's assertion that RME Program capital costs are likely to provide benefits to customers beyond the life of the RME Programs is entirely unsupported. RESA Comments, p. 7. Contrary to RESA's unsubstantiated assertions, none of the structures, systems or processes implemented to operate the RME Programs can be assumed to survive the expiration of the programs at the conclusion of DSP II. In addition, RESA has not explained why it would be more practical to recover what it deems "difficult to quantify" costs (e.g., "customer representative time") from customers rather than EGSs.

Second, the Commission should reject RESA's proposal to the extent that it would preclude PECO from collecting RME Program costs on a full and current basis, as a matter of law. For example, RESA would limit the costs that PECO could recover from EGSs based on actual customer enrollments. However, the number of customers who will accept an Opt-In or SOP offer cannot be projected with reasonable accuracy. As a result, PECO is at risk for significant undercollection of costs, which, according to RESA, must be claimed in a future base rate proceeding. Under the Public Utility Code, default service providers have the right to recover all reasonable costs incurred pursuant to a Commission-approved plan on a full and current basis, pursuant to a Section 1307 surcharge. 66 Pa.C.S. § 2807(e)(3.9); *see also Pennsylvania Power Co. v. Pa. Pub. Util. Comm'n*, 932 A.2d 300, 307 (Pa. Cmwlth. Ct. 2007) (vacating order denying EDC's provider of last resort reconciliation plan and remanding to the Commission to determine mechanism for full recovery of costs).

RESA's recommended standard of review for any claimed expenses incurred by PECO to implement the RME Programs that exceed PECO's projected costs is also contrary to law. It is well-settled that public utilities are entitled to recover all of their prudently incurred costs, which are reasonably calculated to achieve the desired goal. *See, e.g., UGI Corp. v. Pa. Pub. Util. Comm'n*, 410 A.2d 923, 932 (Pa. Cmwlth 1980). Applying that principle, in *UGI Corp.*, the Commonwealth Court rejected the Commission's standard of review based on whether the claimed expense actually achieved the outcome for which it was incurred (in that case, to acquire more gas for customers). *Id.* Notwithstanding that precedent, RESA proposes a more stringent standard of review whereby claimed expenses incurred with respect to previously approved programs must be "designed to achieve the greatest success at the lowest, reasonable costs." RESA Comments p. 9.

Third, RESA's attempt to introduce new factual issues regarding the SOP costs estimates for the first time in its Comments is improper. Specifically, RESA claims that EGSs would not participate in the SOP if EGSs have to pay more than \$30 per customer. RESA Comments, pp. 6, 9. PECO's testimony clearly sets forth its estimates of the initial and ongoing costs of the SOP. *See* Exhibit ABC-5R. Nonetheless, RESA failed to offer a per-customer cost level that it believes is appropriate either in testimony or through any other form of evidence, even though RESA had full opportunity to raise its concerns in these proceedings. By raising non-record factual assertions regarding the estimated costs of the SOP presented for the first time in its Comments, RESA has prejudiced PECO and other parties by foreclosing any opportunity to present evidence in response, contrary to Section 504 of Pennsylvania's Administrative Agency Law and the Commission's regulations at 52 Pa. Code § 5.431(b).¹⁷ If, in RESA's view, the

¹⁷ *See, e.g., Kowenhoven v. County of Allegheny*, 901 A.2d 1003, 1010 (Pa. 2006); *Equitable Gas Co. v. Pa. P.U.C.*, 405 A.2d 1055, 1059 (Pa. Cmwlth. 1979); *United Natural Gas Co. v. Pa. P.U.C.*, 33 A.2d 752, 758 (Pa. Super.

SOP is not cost-effective, it should have presented that evidence to the Commission when the issues in this case were being litigated.

Additionally, RESA contends that PECO should amortize the costs of both the Opt-In and SOP over the “useful life of the asset,” which, according to RESA, is five to seven years. RESA Comments, p. 8. However, the useful life in each instance is the program term for which the costs are incurred. For the Opt-In Program, that period is only one year. And for the SOP it is two years.

For all of the foregoing reasons, RESA’s Comments proposing an alternative cost recovery approach should be disregarded.

2. RESA’s Improper Attempt To Re-Litigate The RME Program Design

a. Composition of Product Offer

In its Comments (pp. 10-11), RESA proposes changes to the product design for both RME Programs that purportedly address concerns raised by the OCA regarding cost recovery. With respect to the SOP, RESA recommends that the Commission adopt RESA’s original proposal for a twelve-month product with the 7% discount from the PTC guaranteed for only four months. For the Opt-In Program, RESA proposes a six-month product with a guaranteed savings of at least 5% from the PTC. RESA Comments, pp. 10-11.

RESA’s Comments improperly attempt to re-litigate issues already resolved by the Commission in the PECO DSP II Order. Under Section 703(g) of the Public Utility Code, the Commission cannot revise or rescind a prior order without notice and opportunity to be heard,

1943) (“None of these figures appear in the record . . . No opportunity was afforded appellant to dispute or discuss them or show their inapplicability to the question.”).

which is not the case here.¹⁸ Specifically, the “guaranteed savings” approach advocated by the OCA and now supported by RESA, was rejected by the Commission in the PECO DSP II Order (pp. 90-91, 114). In addition, the Commission specifically rejected RESA’s recommended SOP product on the ground that it “would lead to customer confusion, would not provide any limits or protections on what a customer could be charged, and would run counter to the purpose of the SOP, which is to introduce customers to the retail market without significant risk.” PECO DSP II Order, p. 114. RESA has not sought clarification or reconsideration of the Commission’s holdings on these issues and its Comments should, therefore, be disregarded.

b. Inclusion of Small Business Customers in the SOP

Consistent with the PECO DSP II Order (pp. 85-86, 109), the Revised Plan limits eligibility for the SOP to residential default service customers. Nonetheless, RESA, in its Comments, again seeks to expand those eligibility rules to allow Small Business Customers to participate.¹⁹ As set forth in PECO’s Answer to RESA’s December 14 Petition, RESA’s request to include Small Business Customers in the SOP is without merit for several reasons.

First, RESA’s Comments seek untimely relief, without sufficient opportunity for the parties to fully address factual issues relating to RESA’s assertions that extending the SOP to Small Business Customers would improve shopping levels for those customers, minimize EGS “participation” costs and avoid customer confusion that RESA chose not to pursue in testimony

¹⁸ 66 Pa.C.S. § 703(g); *see also Popowsky v. Pa. Pub. Util. Comm’n*, 805 A.2d 637, 642-643 (Pa. Cmwlth Ct. 2002) vacating Commission’s order adopting a settlement that rescinded a prior order resolving a water utility’s requested base rate increase and holding that the established comment process was not a meaningful opportunity to be heard, as required by Section 703(g)).

¹⁹ On December 14, 2012, RESA filed a Petition for Reconsideration *Nunc Pro Tunc* or For Amendment of the Commission’s Opinion and Order of October 12, 2012 (“December 14 Petition”) requesting that the Commission reverse its decision approving PECO’s proposed SOP customer eligibility rules and direct PECO to include Small Business Customers to participate in both the SOP and Opt-In Programs. PECO filed its Answer Opposing RESA’s Petition on December 27, 2012 (“Answer”). The OSBA also opposed RESA’s December 14 Petition as procedurally improper, factually flawed, unfounded and a violation of due process. *See* OSBA Comments, pp. 3-4.

or hearings. The Commission was clearly aware that RESA's Exception regarding the eligibility of Small Business Customers was directed to both RME Programs, but nonetheless granted that Exception only with respect to the Opt-In Program.

Second, the record in this case does not provide a basis for presuming that the SOP is appropriate for the diverse range of Small Business Customers. The Commission's rationale for including Small Business Customers in the one-time Opt-In Program was based, in part, on its finding that the resulting administrative complexity was not insurmountable. PECO DSP II Order, p. 86. However, extending the SOP to that segment of customers, which are not homogenous with respect to rates among other attributes, would add considerable complexity because different offers with different prices would have to be designed, solicited and marketed to different customers each Standard Offer month. Finally, as RESA concedes in its December 14 Petition (p. 8), expanding the SOP's customer eligibility rules could delay program implementation for residential customers. The PECO DSP II Order fully supports PECO's proposal to limit the SOP to residential customers and therefore RESA's Comment should be disregarded.

3. RESA's Proposed Modifications To The Opt-In And Standard Offer Rules

As previously noted, the collaborative participants carefully reviewed the Opt-In and Standard Offer Rules and agreed to a variety of changes. At the same time, however, PECO has maintained certain provisions from its original DSP II filing that are consistent with other competitive procurements undertaken by PECO and approved by the Commission. In its Comments (p. 16), RESA generally objects to the use of standard applications and form agreements ("EGS Form Agreements") to implement the RME Programs as an unnecessary intrusion on the competitive market.

As a threshold matter, RESA's assertion that the execution of EGS Applications and Form Agreements by qualified EGSs is not necessary because the relationship between EGSs and PECO is already governed by PECO's Supplier Tariff is simply wrong. Other than the issue of cost recovery, PECO's proposed Opt-In and SOP are not covered under the Supplier Tariff. *See Revised Plan, Exh. G; Tr. 66.* Therefore, execution of the EGS Form Agreements is absolutely necessary to bind EGSs to the Opt-In and Standard Offer Rules. The Commission directed the parties to collaborate and review the terms and conditions of the Opt-In and Standard Offer Rules to ensure that they do not impose unreasonable or unnecessary requirements on EGSs. PECO DSP II Order, pp. 106-107, 124. However, the Commission did not suggest that the use of EGS Form Agreements was inappropriate or unwarranted. Moreover, the Commission has previously approved uniform rules for Commission-mandated programs similar to the RME Programs, including PECO's market share threshold customer assignment programs.²⁰

In addition to its general objection to the use of EGS Applications and Form Agreements, RESA proposes specific modifications to the Opt-In and Standard Offer Rules beyond the consensus changes reflected in the Revised Plan. Each of RESA's proposed modifications is addressed, in turn, below.

a. Reporting Requirements

RESA contends that imposing reporting requirements on EGSs is unnecessary and burdensome because the Commission has the authority to request information relevant to RME Program success directly from EGSs. On that basis, RESA recommends deletion of paragraphs 6.5 and 4.5 from Opt-In Rules and Standard Offer Rules, respectively, RESA Comments, p. 17,

²⁰ *See Petition for Approval of PECO Energy Co.'s Market Share Threshold Bidding/Assessment Process*, Docket Nos. P-00021984, P-00021992 (Opinion and Order entered May 1, 2003).

and elimination of the requirement that EGSs track specific information relating to the payment of bonuses to individual Opt-In Program customers. As to the latter proposal, RESA alternatively recommends an EGS certification to the Commission that it has complied with the bonus payment requirement. RESA Comments, p. 21. PECO believes its proposed reporting requirements are not unreasonable or burdensome and, in fact, will provide the Commission and the OCA with timely and valuable information for post-program reporting and analysis. *See* OCA Comments, pp. 2-4 (stating that PECO’s proposed reporting provisions will be “crucial” to determining the success of the RME Programs). Accordingly, RESA’s position on this issue should be rejected.

b. Prohibition Against EGS Termination of Service

Under both the Opt-In Rules (§7.15) and Standard Offer Rules (§5.6), an EGS may not discontinue service to a customer who accepted its offer under the program before the end of the service period under any circumstances, including non-payment or a change in applicable law, regulations, tariffs or orders. RESA contends that future “Commission directives and/or legislation” could make EGS participation in the Pennsylvania market “impossible” and render participation in the RME Programs unreasonable. RESA Comments, p. 18. RESA therefore recommends removal of those provisions from the Opt-In and Standard Offer Rules. However, RESA has not demonstrated that retention of the notification and informal dispute resolution process triggered by a change in law, regulation or order established under Rule 19.5 of the Supplier Tariff is warranted, particularly in light of the short duration of the RME Programs. Indeed, under that procedure, a party may not be able to terminate the EGS Form Agreement until as long as five months after the change in law if the parties are unable to resolve the issue.²¹

²¹ Rule 19.5 provides in relevant part: “If at any time during the term of the Tariff..., the [Commission] or a court of competent jurisdiction issues an order under which a party hereto believes that its rights, interests and/or

c. Publicity

RESA recommends revisions to Paragraphs 8.8 and 6.8 of the Opt-In Rules and Standard Offer Rules, respectively, which limit the ability to reference PECO in EGS marketing for the RME Programs. According to RESA, these provisions are counter-productive because the successful implementation of the RME Programs can only be achieved through “a combination of marketing efforts”. RESA Comments, p. 19. To address this concern, RESA recommends revision of the foregoing publicity provisions to make clear that factual references in EGS marketing materials to PECO’s service territory or participation in the RME Programs do not require PECO’s express consent, provided that such references do not infer an endorsement by or affiliation with the Company. As PECO’s witness, Mr. McCawley, explained in cross-examination testimony, the purpose of these provisions is to ensure that PECO may withhold approval in cases where an EGS promotes its role in a way that has a negative effect on the reputation of the PECO Energy Company brand. Tr. 75-76. RESA also fails to recognize that the Commission has already approved more restrictive contractual language identical to PECO’s original DSP II proposal in PECO’s Alternative Energy Portfolio Standard (“AEPS”) Procurement RFP (§ 7.6).²²

expectations under the Agreement are materially affected by said order, the party so affected shall within thirty (30) days of said final order provide the other party with notice setting forth in reasonable detail how said order has materially affected its rights, interests and/or expectations in the Agreement. Within thirty (30) days from the receiving party’s receipt of said notice the parties agree to attempt through good faith negotiations to resolve the issue. If the parties are unable to resolve the issue within thirty (30) days from commencement of negotiations, either party may at the close of said thirty (30) day period terminate the Agreement, subject to any applicable regulatory requirements, following an additional thirty (30) days prior written notice to the other party...”

²² See PECO Energy Company Request for Proposals to Supply Tier II Alternative Energy Credits In Compliance With Pennsylvania’s Alternative Energy Portfolio Standards Act (November 17, 2011), available at <https://www.peco.com/PartnersinBusiness/GreenEnergySuppliers/Documents/Fall%202011%20Tier%20II%20AEC%20RFP.pdf>.

d. Indemnification

RESA contends that standard indemnification language included in the Opt-In and Standard Offer Rules should be reciprocal. RESA Comments, pp. 19-20. This assertion, however, is devoid of any factual basis. The Commission has considered and approved identical language for PECO's AEPS Procurement RFP (§7.7).

e. Time for Providing Enrolled Customers Standard Offer Program Terms and Conditions

In its Comments (p. 22), RESA proposes a three business day turnaround time in Paragraph 4.4 of the Standard Offer Rules instead of one business day for sending the sales agreement to customers after the enrollment transaction to allow time to address "operational issues" with the enrollment. RESA further requests that PECO clarify in Paragraph 4.4 that participating EGSs are not required to redraft disclosure statements required under 52 Pa. Code § 54.5 to use the exact terms and conditions set forth in Article 5 of the Standard Offer Rules. RESA Comments, pp. 22-23. PECO agrees with both revisions to Paragraph 4.4 of the Standard Offer Rules as recommended by RESA. A copy of the revised Standard Offer Rules, which reflect those revisions, is attached hereto as Exhibit 1.

f. Timing of Notice Regarding End of Term Options

In accordance with the Commission's directives in the *Intermediate Work Plan Order* (p. 32), the Standard Offer Rules (§§ 4.4 and 5.1) require EGSs to present the terms and conditions of the standard offer, including the date by which the customer must take action to exercise his or her options and the end of the term, at the time of their first contact with the customer. RESA contends that this requirement is unnecessary because EGSs must provide the date certain for any action required by customers to exercise their available options, forty-five days prior to the expiration date of the agreement in the "Options Notice" required under the Commission's

guidelines.²³ RESA Comments, pp. 23-24. However, RESA's recommended change plainly contradicts the Commission's holding in the PECO DSP II Order (pp. 114-116) that participating EGSs must remind the customer of the date by which the customer must exercise his or her options at the time of their first contact with the customer and again provide such date certain in the notices required by the Commission's regulations at 52 Pa. Code § 54.5(g)(1) and PECO's Supplier Tariff. Therefore, RESA's Comments on this issue should be disregarded.

C. Reply To Dominion

While Dominion maintains its position that all customers benefit from RME Programs and therefore should pay some or all of the costs, Dominion does not oppose PECO's revised cost recovery proposal for the Opt-In Program and states that it "could accept paying the [SOP] costs in full, if the [SOP] is appropriately addressed." Dominion Comments, p. 3. Despite that statement, Dominion proposes a "sharing mechanism", which would recover half of the SOP costs from EGSs through a per-customer switch fee and the balance from distribution customers through a non-bypassable surcharge.

As support for its argument that cost sharing is appropriate for the SOP, Dominion points to the current cost estimates for the program, which, according to its calculations, equate to a customer acquisition cost in the \$75 to \$100 range. Dominion Comments, p. 5. However, Dominion has not presented any evidence demonstrating that the level of costs proposed by PECO exceed the cost of acquiring customers through EGS marketing or would otherwise discourage EGSs from participating in the SOP. Similarly, Dominion fails to explain why the responsibility for the costs of implementing a program that, apparently, in Dominion's view, is not cost effective, should be shifted from EGSs to customers. Moreover, as PECO explained in

²³ *Interim Guidelines Regarding Advance Notification by an Electric Generation Supplier of Impending Changes Affecting Customer Service*, Docket No. M-2010-2195286 (Order entered September 23, 2010).

its Initial Brief (pp. 75-76), adopting Dominion’s proposal would add complexity to administration of the SOP.

Alternatively, Dominion submits that the Commission should “abandon” the Standard Offer Program in favor of a “first choice program” that requires new/moving customers to affirmatively select an EGS from a list that includes default service. Dominion Comments, pp. 4-5. If the Commission agrees with Dominion’s alternative request, PECO is not opposed to foregoing or delaying implementation of the SOP. However, PECO does not support replacing the SOP with a program that requires new/moving customers to select the supplier of its generation commodity from a list because it is inconsistent with Commission’s guidance regarding the need for standard offer customer referral programs in the *Intermediate Work Plan Order* (pp. 31-32). Moreover, as Dominion essentially concedes, its proposal would likely require the full deployment of advanced metering infrastructure to enable immediate EGS service. See Dominion Comments, p. 6. As PECO’s testimony demonstrated, instantaneous switching is not possible due to current operational constraints. PECO St. No. 2-R, pp. 22-23.

D. Reply To FES

1. FES’ Alternative Cost Recovery Proposals

Under FES’ proposal for the Opt-In Program, costs would be recovered from EGSs through a per-customer charge based on actual customer enrollments (not the number of customers allocated to the EGS), subject to a predetermined cap. Any under-collection of costs as a result of the predetermined cap would be recovered from all customers in the classes eligible to participate. FES proposes to treat ongoing SOP costs and any resulting undercollection of costs in the same manner. FES Comments, p. 7.

FES’ proposal to collect costs, based on uncertain future customer enrollment enrollments under the program, places PECO at risk of not recovering its actual costs and is

contrary to the assurance of full and current cost recovery that underlies the obligation imposed on PECO as a default service provider by Act 129. As explained in Section III.B.1 above, costs incurred to implement the Commission-mandated RME Program cannot be denied recovery under the Section 1307 adjustment clause authorized by Section 2807(c)(3.9) of the Public Utility Code.

Additionally, FES' Comments on the Opt-In Program simply ignore the substance of the Revised Plan, which incorporate many aspects of FES' proposal. Specifically, the Revised Plan requires PECO to inform EGSs that have applied to participate in the Opt-In Program of the "not to exceed" per-customer cost prior to assignment of customers and provide them the opportunity to withdraw if they so choose. Revised Plan, Exh. D, ¶¶ 2.1, 4.1.

Finally, FES proposes to allocate the initial costs to implement the SOP equally among all EGSs licensed to service residential customers in PECO's service territory that have not submitted a waiver stating that they will not participate in the SOP prior to June 1, 2015. FES Comments, p. 7. PECO submits that this proposal is overly complex and should be rejected on that basis alone.

2. Proposed Modifications to the Opt-In and Standard Offer Rules

a. Removal of Certain Terminology

In its Comments (pp. 8-10), FES expresses concern that the Opt-In Rules, Standard Offer Rules and EGS Form Agreements include confusing terminology that inaccurately suggests that the RME Programs are competitively bid. For example, FES asserts that reference to the terms "competitive" and "request for proposals" in those documents implies price-based bidding among EGSs to determine which EGSs will "win" customers. FES Comments, p. 9. To allay its concern, FES recommends that the Commission direct PECO to eliminate all terminology suggesting that the RME Programs include a price-based bidding competition or any submission

of competing proposals from Exhibits D and E of the Revised Plan. While PECO can accept removal of the term “competitive” from the Opt-In Rules, the Company notes that such term simply refers to the fact that an EGS offer is competitive compared to the applicable PTC. However, retention of the “request for proposals” terminology is appropriate because PECO is proposing to request proposals from EGSs to participate in both RME Programs in the Revised Plan. A copy of the revised Opt-In Rules, which reflect removal of the “competitive” terminology, is attached hereto as Exhibit 2.

b. Opt-In Program Calendar

Consistent with the PECO DSP II Order and Clarification Order, PECO proposes to require EGSs participating in the Opt-In Program to submit the terms and conditions for their eight-month fixed price product to the Commission for review forty-five days before the offer is extended to customers. *See* Revised Plan, Exh. D, ¶¶ 2.1, 7.12, 7.13. To avoid EGS “confusion,” FES asserts that PECO should provide the approximate date when the eight-month EGS determined fixed price begins in the program schedule set forth in Paragraph 2.1 of the Opt-In Rules. FES Comments, p. 11. PECO agrees with FES that the Opt-In Rules should mitigate any potential confusion regarding the timing of the change in Opt-In product price. Therefore, *PECO will specify the approximate date that the EGS-determined fixed price begins, as requested by FES. See Exhibit 2, ¶2.1.*

c. Opportunity to Cure Alleged Deficiencies

Under both the Opt-In and Standard Offer Rules, PECO will evaluate each application using a standard protocol for completeness and satisfaction of qualifications. *See* Revised Plan, Exh. D, ¶¶ 3.4, 3.5 & Exh. E, ¶¶ 3.4 and 6.11. FES asserts that PECO should be required to provide EGSs with notice of any alleged deficiencies in their application and a reasonable

opportunity to cure. FES Comments, p. 11. PECO agrees with FES. Accordingly, in rejecting an application, PECO will identify the deficiencies and provide a two business day cure period.

d. Reports on Bonus Checks

To avoid placing an undue burden on participating EGSs, FES asserts that bonus reporting should be limited to aggregated information on bonus checks mailed to all customers. Alternatively, FES recommends replacing the bonus reporting requirement with a certification to the Commission that the participating EGS has complied with the bonus payment requirement. FES Comments, p. 11. As discussed in Section III.B.3.a, *supra*, PECO believes its proposed reporting provisions are reasonable and provide the Commission and the OCA valuable information supporting post-program reporting and analysis in the Retail Markets Investigation.

e. Publicity

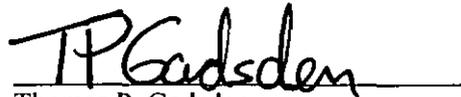
FES objects to any limitations on EGSs publicizing their participation in the RME Programs and relationship with PECO on the ground that such provisions may alter rights under existing law and will discourage EGS participation. FES Comments, p. 11. Alternatively, FES recommends that PECO clarify that Paragraphs 8.8 and 6.8 of the Opt-In and Standard Offer Rules, respectively, are not intended to infringe upon or alter either party's rights under existing federal and state law. For the reasons stated in Section III.B.3.c., *supra*, PECO submits that its existing publicity provisions are appropriate.

f. Indemnification

Like RESA, FES contends that the release and indemnification provisions in the Opt-In and Standard Offer Rules should be reciprocal. FES Comments, p. 12. This issue is addressed in Section III.B.3.d., *supra*.

WHEREFORE, PECO Energy Company respectfully submits its Reply Comments and requests that the Commission enter a final Order approving the Revised Plan, with the limited modifications described herein, by January 24, 2013.

Respectfully submitted,



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Dated: January 7, 2013

PECO Energy Company

Electric Generation Supplier
Standard Offer Program
Request for Proposals and Program Rules

January XX, 2013

RECEIVED

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

ARTICLE 1 INTRODUCTION

- 1.1 In this Request for Proposals (“RFP”), PECO Energy Company (“PECO” or the “Company”) is soliciting proposals by electric generation suppliers (“EGSs”) to provide competitive retail service to residential customers. Participating EGSs in this program (the “Standard Offer Program” or “Program”) will have the opportunity to submit applications to provide fixed-price electric generation service to residential customers for twelve monthly billing cycle periods, on a month by month basis beginning approximately three weeks after the application is submitted. This document describes the process by which EGSs may qualify and submit applications and the rules with which each accepted applicant (the “Standard Offer Supplier”) must comply and the standard terms and conditions for service provided by the Standard Offer Supplier under this Program.
- 1.2 Program Duration. The Standard Offer Program will begin at the conclusion of the enrollment period for PECO’s EGS Opt-In[~~Competitive~~] Offer Program, which is expected to conclude on or about May 15, 2013. The initial Standard Offer Month will be June 2013; the final Standard Offer Month will be May 2015.
- 1.3 PECO is a corporation organized and existing under the laws of the Commonwealth of Pennsylvania with its principal corporate office in Philadelphia, Pennsylvania. PECO is an electric distribution company under Pennsylvania law and provides electric delivery service to approximately 1.6 million retail customers in Southeastern Pennsylvania. PECO is also the default service provider in its service territory, and currently provides electric generation service to approximately [_____] residential customers.
- 1.4 Participating EGSs must qualify by submitting an application (an “Application”) to PECO demonstrating their qualifications to become a Standard Offer Supplier, as described in detail in Section 3.2. These qualifications include certification to serve load in the PECO territory at the time of Standard Offer Supplier Application Due Date. As part of the qualifying process, an Applicant will be required to execute a Standard Offer Supplier Agreement in which the Applicant agrees to various requirements. In the Standard Offer Supplier Agreement, the Applicant agrees to offer all interested residential customers a fixed price, in cents per kilowatt-hour, for which the supplier is prepared to provide electric generation service to residential customers for twelve monthly billing cycle periods (the “Standard Offer Period”). The fixed price to be offered by the Applicant must be seven percent (7%) lower than the PECO default service rate (the “Price-to-Compare”) in effect at the time of the offer.
- 1.5 Although applications may be submitted at any time, PECO will activate Standard Offer Suppliers only for whole calendar months. An Applicant must be deemed qualified by PECO at least ten business days in advance of first day of the next calendar month in order to be activated as a Standard Offer Supplier for that month. A Standard Offer Supplier may request removal from the list of Standard Offer Suppliers upon thirty days written notice to PECO. Absent a request to be removed from the list, Standard Offer Suppliers will continue to be listed from month to month.

1.6 This RFP includes the following attached documents:

Exhibit 1: Standard Offer Supplier Application (including Standard Offer Supplier Agreement)

**ARTICLE 2
SCHEDULE AND STANDARD OFFER SUPPLIER INFORMATION**

2.1 Monthly RFP Schedule. The following table sets forth significant dates each month (the “Program Schedule”) for the Standard Offer Supplier Program. The time for each deadline on each specified date is 5:00 pm Eastern Prevailing Time (EPT). PECO reserves the right to modify these dates at its discretion.

RFP Overview and Technical Conference	Scheduled during the first week of the month prior to the upcoming Standard Offer Month
Standard Offer Supplier Application Due Date	Twenty business days before Standard Offer Month
Notification of Standard Offer Supplier Qualification	Ten business days before Standard Offer Month
Standard Offer Month	Calendar month
Commencement of Supply by Standard Offer Supplier	Based on enrolled customer’s switching date

2.2 RFP Overview and Technical Conference. PECO will post a schedule of technical web conferences to outline the Standard Offer Program, including the RFP process. PECO will notify all registered EGSs of the technical conferences by EGS bulletin and by email to the PUC/OCMO distribution list. Potential Applicants are urged to review this RFP, including exhibits, prior to the web conference. PECO will answer questions raised at each web conference to the extent possible. Any party wishing to participate in each web conference must send an e-mail to *[e-mail address to be provided]* with the subject line “Standard Offer Program” PECO will provide participation information for the web conference by return e-mail.

2.3 Applicant Inquiries. Before each technical conference, participants may submit questions to PECO via electronic mail *[e-mail address to be provided]*. To the extent possible, questions submitted prior to the technical conference will be addressed by PECO at the conference. Additional questions submitted and answered by PECO thereafter shall be posted with answers. The person or company submitting the question shall not be identified. While PECO will review and attempt to answer questions in good faith, PECO reserves the right not to answer any question. The conference and this Applicant inquiry procedure are the exclusive methods for inquiring about this RFP, and questions submitted to individual PECO employees or the Company by other means will not be answered and may result in disqualification of the Applicant.

- 2.4 Informational Website and Updates. PECO has established a website – [/www.peco.com/_____](http://www.peco.com/_____) – for electronic copies of RFP materials, posting of questions and answers, the RFP schedule, and other updates on this RFP. Applicants are encouraged to review this website regularly. In its sole discretion, PECO will endeavor to provide e-mail notification of important website updates to qualified Applicants.

**ARTICLE 3
STANDARD OFFER SUPPLIER QUALIFICATION**

- 3.1 Standard Offer Supplier Application. In order to submit an Application in response to this RFP, an Applicant must submit a printed original and three printed copies of an Application for approval by PECO using the form attached hereto as Exhibit 1, Attachment A (Form of Standard Offer Supplier Application). All Applications shall be submitted to the submission address specified in Section 8.2. Applications which are incomplete, do not conform to the form attached hereto, or otherwise do not satisfy all requirements of this RFP shall not be considered. Submission of a Standard Offer Supplier Application constitutes an Applicant’s agreement to and acceptance of all terms and conditions of this RFP. An electronic copy of the Applications may be provided initially via electronic email to *[e-mail address to be provided]* to meet the bidder application deadline as long as the required hard copies are received by 5:00 p.m. EPT on the business day immediately following.
- 3.2 Standard Offer Supplier Qualifications. In order to qualify to submit a Proposal, an Applicant must certify in the Application that it satisfies the following criteria (the “Standard Offer Supplier Qualifications”):
- (a) The Applicant is certified to serve load in the PECO territory at the time of the Standard Offer Supplier Application Due Date.
 - (b) The Applicant does not have any past due outstanding supplier-related charges owed to PECO (excluding any pending disputed charges).
 - (c) The Applicant agrees that any delayed charges must be billed pursuant to all applicable Electronic Data Exchange Working Group “Final Bill” implementation guidelines. No Program charges may be separately billed.
- 3.3 Standard Offer Supplier Agreement. Each Applicant must also execute a Standard Offer Supplier Agreement in the form included in the Standard Offer Supplier Application. In the event the Applicant does not become a Standard Offer Supplier, the Standard Offer Supplier Agreement will be returned to the Applicant unexecuted by PECO upon request of the Applicant.
- 3.4 Additional Information. PECO may, but is not obligated to, request additional information and materials from any Applicant for evaluation of an Application. Information submitted by an Applicant absent a request by PECO which is not in the nature of a correction or clarification to the Application will not be considered by PECO. If any information in an Application or Standard Offer Supplier Agreement is no longer true, Applicants shall immediately notify PECO of the changed information. Failure to provide such notification

or respond to a request for additional information and materials may result in disqualification of the Applicant and rejection of its Application. [~~PECO shall have no duty to inform any Applicant of any deficiency in its Application.~~]

- 3.5 Prior Qualification. An Applicant who has previously qualified under the Standard Offer Supplier Program is not required to submit a second application for succeeding months, but must inform PECO of any change its status or ability to satisfy the qualification requirements as provided in Section 3.4. An Applicant who has previously qualified under the Standard Offer Supplier Program need not execute a new Standard Offer Supplier Agreement unless requested by PECO.
- 3.6 Application Evaluation and Notification of Applicants. PECO will evaluate each Application using a standard protocol for its completeness and satisfaction of the Standard Offer Supplier Qualifications. PECO will provide each Applicant with notice of its satisfaction or failure to satisfy the Standard Offer Supplier Qualifications by the date for Notification of Standard Offer Supplier Qualification set forth in the Program Schedule. **In the notice of failure to satisfy the Standard Offer Supplier Qualifications, PECO shall inform each Applicant of any deficiency in its Application, which will result in disqualification of the Applicant if such deficiency is not remedied within two business days after written notice.**
- 3.7 PECO Affiliates. Affiliates of PECO are permitted to submit Applications and to participate in this RFP to the same extent as any other entity.

ARTICLE 4 CUSTOMER ENROLLMENT

- 4.1 Enrollment. Residential customers may enroll with the Standard Offer Supplier through the PECO website or by telephone using an interactive voice response (“IVR”) system maintained and operated by PECO or a dedicated call center referral group. Customers may select a Standard Offer Supplier from a list, or choose to have PECO randomly assign a Standard Offer Supplier.
- 4.2 Enrollment Report. Once every business day, PECO will electronically transmit a report of enrollment requests received to each EGS serving as Standard Offer Supplier. The Enrollment Report will contain the information needed to enable the EGS to submit EDI 814 enrollment requests to PECO. Each Standard Offer Supplier shall submit EDI 814 enrollments within one business day of receipt of the enrollment request report from PECO. The contract date in the EDI 814 transaction must match the date of the applicable Enrollment Report.
- 4.3 Enrollment Processing. Upon receipt by PECO of the EDI 814 enrollment, the standard EDC Enrollment Letter (or other Pennsylvania Public Utility Commission (“Commission”)-approved form of notification) will be mailed by PECO to the customer.
- 4.4 Sales Agreement. Each Standard Offer Supplier shall send a sales agreement, which meets all PUC regulations and [~~includes~~]**complies with the requirements set forth in** the terms

and conditions set forth in Article 5, to the customer [~~within one~~ **no later than three** business ~~day~~ **days** after sending the EDI 814 enrollment transaction. The sales agreement will provide the terms of service for the initial 12-monthly billing cycle period and also provide information about how the terms may change after the initial 12-month period. This shall include the date by which the customer must take action to exercise his or her options at the end of the term.

- 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 Office of the Consumer Advocate annually, with the first report submitted within 45 days after PECO has operated the program 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 offer 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 at the end of the 12-month Standard Offer Period. PECO will provide a template for this reporting to facilitate compilation of data.

ARTICLE 5 STANDARD OFFER SUPPLIER STANDARD TERMS AND CONDITIONS

The following standard terms and conditions shall apply to all Standard Offer Suppliers:

- 5.1 At the time of the first contact between the Standard Offer Supplier and the Standard Offer Customer, the customer will be reminded of the terms and conditions of the standard offer, including the date by which the customer must take action to exercise his or her options at the end of the term.
- 5.2 All Standard Offer Supplier billing for customers who enroll under the Program shall be Consolidated EDC Billing.
- 5.3 Each customer shall have the option to return to PECO default service or to switch to another EGS, or to the Standard Offer Supplier under a different offer, at any time and without incurring switching fees or other penalties.
- 5.4 Only PECO shall be entitled to terminate service to customers for non-payment of EGS charges under the terms of its approved Purchase of Receivables program. Except as otherwise permitted in the Supplier Tariff, in no event may a Standard Offer Supplier discontinue service to a customer who accepted its offer under the Program before the end of the Standard Offer Period.
- 5.5 All Standard Offer Suppliers must provide notice prior to the end of the Standard Offer Period regarding any renewal and/or price change as required under PA PUC regulations and orders.

- 5.6 Notwithstanding any language in Rule 19.5 of the Supplier Tariff to the contrary, a Standard Offer Supplier shall not have the right to terminate service to its customers obtained through this Program because of a change in applicable rules, regulations, tariffs, or orders.

**ARTICLE 6
ADDITIONAL PROGRAM PROVISIONS**

- 6.1 Program Costs. All costs associated with implementation of the Standard Offer Supplier Program, including this RFP, will be recovered through a discount in the Purchase of Receivables payment to all suppliers serving residential customers. Costs include information system implementation costs for website and IVR changes, incremental call center support for the program and other associated administrative costs.
- 6.2 Address for submissions. All submissions to PECO for this RFP and Program, unless otherwise communicated at a technical conference and subsequently posted to the _____ website, shall be delivered via overnight delivery to the following address:

PECO Standard Offer Supplier Program
c/o [Name],
PECO Energy Company
S14-2
2301 Market Street
Philadelphia, PA 19103

Applicant is solely responsible for the timely delivery of any submission for this RFP. Applications and other materials received after the applicable date specified in this RFP shall be accepted only in PECO's sole discretion. Electronic emails shall be sent to: *[e-mail address to be provided]*

- 6.3 No Unauthorized Modifications. No interpretation or change to this RFP shall be valid unless it is signed by a duly authorized representative designated by an Officer of PECO.
- 6.4 Ownership of RFP Materials. All materials submitted to PECO pursuant to this RFP shall be the property of PECO.
- 6.5 Presentation and Formatting. All information submitted by an Applicant must be in the English language.
- 6.6 Costs. PECO shall have no responsibility whatsoever with respect to the costs of any Applicant in considering or responding to this RFP, including but not limited to any costs of preparing any materials submitted to PECO.
- 6.7 Use of PECO Mark. PECO will have final approval regarding the use of any PECO mark and any other reference to PECO in materials related to the Standard Offer Supplier Program.

- 6.8 Publicity. Each Applicant understands and agrees that PECO does not participate in, nor does it allow, Applicants to utilize media releases of any kind to publicize Applicant's business relationship with PECO. Each Applicant shall not use any trade name, trademark, service mark or any other information which identifies PECO in such Applicant's sales, marketing and publicity activities, including interviews with representatives of any written publication, or television or radio station or network, without PECO's express prior written consent. Standard Offer Suppliers are not permitted to promote their role as Standard Offer Supplier, either before, during or after their Offer Month, without PECO's prior written approval, which PECO may withhold approval in its sole discretion. For all other references to PECO not requiring PECO's prior consent, the references must be factual and cannot infer an endorsement by or affiliation with PECO.
- 6.9 Disclaimer. PECO makes no representations or warranties regarding the accuracy or completeness of the information contained in this RFP and its exhibits or any statements made by representatives of PECO during the RFP process. Each Applicant is responsible for making its own evaluation of information and data contained in this RFP and in preparing and submitting responses to this RFP. The issuance of this RFP and the receipt of information in response to this RFP shall not, in any way, cause PECO to incur any liability (whether contractual, financial or otherwise) to any Applicant participating in the RFP process. By submitting an Application, Applicant releases PECO, its affiliates, officers, employees, and agents from any and all claims, demands, actions, losses, liabilities, and expenses (including reasonable legal fees and expenses) (collectively, "Claims") relating to this RFP and agrees to indemnify PECO, its affiliates, officers, employees and agents from any Claims arising from any false representation or violation of these RFP rules by Applicant.
- 6.10 Not an Offer. This RFP is issued to elicit responses to PECO's inquiry and is not an offer. The issuance of the RFP and the submission of Applicant's information do not create any obligation upon PECO, and PECO reserves the right to accept or reject any or all proposals received. PECO also reserves the right to amend, suspend, or terminate the RFP process at any time, without reason and without liability, and makes no commitments, implied or otherwise, that this process will result in a business transaction with one or more Applicants. No contract or other binding obligation on PECO will be implied unless and until an agreement has been executed on terms and conditions acceptable to PECO. PECO also reserves the right to not execute agreements with any or all Applicants should the Company determine, in its sole discretion, that such agreement would violate existing regulatory standards.
- 6.11 Non-conforming Applications. PECO reserves the right to reject any Application at any time on the grounds that it does not conform to the terms and conditions of this RFP or the Applicant has not complied with the provisions of this RFP.

EXHIBIT 1 - FORM OF STANDARD OFFER SUPPLIER APPLICATION

Name of Applicant:			
Contact:		Title:	
E-mail:		Phone:	
Address:	City:	State:	Zip Code:
<p><u>INSTRUCTIONS</u></p> <p>Two signed originals of Attachment A (Standard Offer Supplier Agreement) must be attached to Applicant's original Application, with a copy attached to each of the three required additional copies. All terms used herein have the meaning set forth in PECO's Standard Offer Supplier Program Request for Proposals and Program Rules.</p>			
<p>As an officer or other authorized representative of the Applicant, I certify that: (a) the Applicant is certified to serve load in the PECO territory at the time of the Opt-In Supplier Application Due Date; (b) the Applicant does not have any past due outstanding supplier-related charges owed to PECO (excluding any pending disputed charges); and (c) the Applicant agrees that any delayed charges must be billed pursuant to all applicable Electronic Data Exchange Working Group "Final Bill" implementation guidelines, and no Program charges may be separately billed.</p>			
<p><u>SIGNATURE OF AUTHORIZED REPRESENTATIVE</u></p>			
<p>I am an officer or other authorized representative of the Applicant and certify that all of the information and certifications in this Application are true and acknowledge that this submission constitutes acceptance and agreement to all terms of the RFP.</p>			
Signature:		Date:	
Name:		Title:	

EXHIBIT 1 - ATTACHMENT A

FORM OF STANDARD OFFER SUPPLIER AGREEMENT

This Agreement (“Agreement”) is made as of _____, 201_ (the “Effective Date”), by and between [Standard Offer Supplier] and PECO Energy Company, a public utility authorized to supply electric service in the Commonwealth of Pennsylvania (“PECO”) (each a “Party” and collectively “the Parties”).

1. Definitions. All capitalized terms not otherwise defined herein shall have the meaning set forth in the EGS Standard Offer Program Request for Proposals and Program Rules issued by PECO on _____, 2013 (the “Program”) and PECO’s Electric Generation Supplier Coordination Tariff (the “Supplier Tariff”).

2. Term. This Agreement shall commence on the Effective Date and shall remain in effect unless terminated as provided in this Agreement.

3. Fixed Price to Customers. In accordance with the Program, the Standard Offer Supplier shall provide Competitive Energy Supply to each customer that enrolls with the Standard Offer Supplier (a “Standard Offer Customer”) at effective Standard Offer Price at the time of each customer’s date of enrollment. The Standard Offer Price shall be a fixed cents/kWh comprised of a seven percent (7 %) reduction from the effective PECO Energy residential default service Price to Compare on the date the standard offer is made. The Standard Offer Price will be available to the Standard Offer Customer over twelve complete billing cycles (“Standard Offer Period”).

4. Terms and Conditions. During the Term, the Standard Offer Supplier agrees that: (a) all Standard Offer Supplier billing for each Standard Offer Customer shall be Consolidated EDC Billing; (b) each Standard Offer customer shall have the option to return to PECO default service or to switch to another EGS, or to the Standard Offer Supplier under a different offer, at any time and without incurring switching fees or other penalties; (c) only PECO shall be entitled to terminate service to Standard Offer Customers for non-payment of EGS charges under the terms of PECO’s approved Purchase of Receivables program in the Supplier Tariff; (d) except as otherwise permitted in the Supplier Tariff, in no event may a Standard Offer Supplier discontinue service to a Standard Offer Customer before the end of the Standard Offer Period; (e) the Standard Offer Supplier shall provide notice prior to the end of the Standard Offer Period regarding any renewal and/or price change as required under the Supplier Tariff and/or PA PUC regulations or Policy Statements; (f) Standard Offer Customers may choose to be assigned to the Standard Offer Supplier of their choice or may choose a random assignment by PECO; and (f) notwithstanding any language in Rule 19.5 of the Supplier Tariff to the contrary, a Standard Offer Supplier shall not have the right to terminate service to its customers obtained through this Program because of a change in applicable rules, regulations, tariffs, or orders.

5. Representations and Warranties of Standard Offer Supplier. The Standard Offer Supplier represents and warrants that, on the Effective Date and throughout the Term: (a) it is certified to serve load in the PECO territory at the time of the Opt-In Supplier Application Due Date; (b) it has no past due outstanding supplier-related charges owed to PECO (excluding any pending disputed charges); and (c) any delayed charges must be billed pursuant to all applicable Electronic Data Exchange Working Group “Final Bill” implementation guidelines.

6. Termination and Withdrawal from Supplier List. This Agreement may be terminated (i) by PECO upon written notice of a material breach of this Agreement by the Standard Offer Supplier; (ii) by PECO

upon the termination of the Program; or (iii) by the Standard Offer Supplier upon thirty (30) days written notice, provided that the Standard Offer Supplier shall no longer be serving any Standard Offer Supplier customers who remain on a fixed rate offered by the Standard Offer Supplier under the Program during the Standard Offer Period applicable to such customer. A Standard Offer Supplier shall be removed from PECO's Standard Offer Supplier list upon 30 days written notice, but the Agreement shall not terminate except as provided in the preceding sentence.

7. Limitations. Notwithstanding any provision of this Agreement or the Program, the Standard Offer Supplier acknowledges that (a) the Standard Offer Supplier has obtained certain benefits from participating in the Program, but that PECO has made no representation regarding the number of customers (if any) the Standard Offer Supplier may obtain as a result of the Program, or the amount of electric load that will be required by such customers; (b) PECO has no obligation to provide electric supply other than default service in accordance with the Pennsylvania Public Utility Code to any customer that may be served by the Standard Offer Supplier in the event that the Standard Offer Supplier no longer serves that customer for any reason; and (c) the Standard Offer Supplier waives any right to claim any loss of business, consequential damage or any monetary or other direct damages from PECO of any kind whatsoever arising from or relating to this Agreement or the Program.

8. Indemnification. The Standard Offer Supplier shall indemnify, save and hold PECO harmless from and against any and all third party losses, costs, liabilities, damages and expenses (including, without limitation, attorneys' fees and expenses) incurred or suffered as a result of or in connection with the Standard Offer Supplier's material breach of this Agreement, failure to comply with any applicable laws, or intentional, negligent or willful misconduct.

9. Other Provisions. This Agreement represents the entire agreement between PECO and Standard Offer Supplier and no amendment of this Agreement will be valid unless in writing and signed by representatives of both parties. Each Party represents that this Agreement is a legally valid and binding obligation enforceable against it in accordance with its terms, and that the execution, delivery and performance of this Agreement are within its powers and have been duly authorized by all necessary action and do not violate any terms and conditions in its governing documents, any contracts to which it is a party, and any applicable law, rule, regulation or order. Neither Party may assign this Agreement without consent of the other Party, not to be unreasonably withheld. All notices required under this Agreement shall be provided to the Parties and addresses listed directly below or to such other address as either Party may designate from time to time by providing written notice to the other Party. Nothing in this Agreement is intended to convey benefits, rights or remedies to any person other than Standard Offer Supplier and PECO, and no third party shall have the right to enforce the provisions of this Agreement, except that the PA PUC may enforce the provisions of this Agreement, the Program, the Supplier Tariff and any provision of the Pennsylvania Public Utility Code or PA PUC regulations applicable to this Agreement. This Agreement is not intended to create any partnership or joint venture between PECO and the Standard Offer Supplier, and neither Party shall have the power to bind or obligate the other Party. In the event that any provision of the Agreement shall be found to be void or unenforceable, such findings shall not be construed to render any other provision either void or unenforceable, and all other provisions shall remain in full force and effect unless the provisions which are void or unenforceable shall substantially affect the rights or obligations granted to or undertaken by either Party. This Agreement shall be construed according to the laws of the Commonwealth of Pennsylvania, without regard to its conflict of laws provisions. In the event of any conflict between this Agreement, the Program, and the

Supplier Tariff, this Agreement shall be controlling.

PECO ENERGY COMPANY

By: _____

Name: _____

Title: _____

PECO Energy Company

ATTN:

2301 Market Street

Philadelphia, PA

Phone:

Fax:

E-mail: ____@peco-energy.com

[STANDARD OFFER SUPPLIER]

By: _____

Name: _____

Title: _____

[Company name]

[Address]

Phone:

Fax:

E-mail:

Document comparison by Workshare Professional on Monday, January 07, 2013 2:55:53 PM

Input:	
Document 1 ID	interwovenSite://MCW1/DB1/72154672/4
Description	#72154672v4<DB1> - Revised Standard Offer Rules (12-11)
Document 2 ID	interwovenSite://MCW1/DB1/72154672/5
Description	#72154672v5<DB1> - Revised Standard Offer Rules (1-07)
Rendering set	MLB Set 1

Legend:	
<u>Insertion</u>	
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Moved from	
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Style change	
Format change	
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Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

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	Count	
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Moved to		0
Style change		0
Format changed		0
Total changes		9

PECO Energy Company

*Electric Generation Supplier
Opt-In[~~Competitive~~] Offer Program
Request for Proposals and Program Rules*

January xx, 2013

RECEIVED

JAN 7 2013

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

ARTICLE 1 INTRODUCTION

- 1.1 In this Request for Proposals (“RFP”), PECO Energy Company (“PECO” or the “Company”) is soliciting proposals by electric generation suppliers (“EGSs”) to provide [~~competitive~~] retail offers to one hundred percent (100%) of its non-shopping default service residential customers, exclusive of Customer Assistance Program (“CAP”) customers and to one hundred percent (100%) of its non-shopping default service small commercial customers with annual peak loads less than 25 kW (“Eligible Customers”). Participating EGSs in this program (the “Opt-In[~~Competitive~~] Offer Program” or “Program”) will provide twelve-month fixed-price electric generation service offers (a four-month introductory price, followed by an eight-month price) to Eligible Customers beginning on or after June 1, 2013 (the “Opt-In Service Period”). This document describes the process by which EGSs may qualify to participate in the Program, the rules with which participating suppliers (the “Opt-In Suppliers”) must comply, the process for allocation of Eligible Customer accounts to Opt-In Suppliers for offer mailings, and the standard terms and conditions for Opt-In Supplier offers to customers under this Program. In addition, although marketing, notifications, and consumer education efforts for this Program will be targeted to Eligible Customers, Opt-In Suppliers must extend offers to residential and small commercial (less than 25 kW) shopping customers, upon a customer’s request, under the same terms and conditions.
- 1.2 PECO is a corporation organized and existing under the laws of the Commonwealth of Pennsylvania with its principal corporate office in Philadelphia, Pennsylvania. PECO is an electric distribution company under Pennsylvania law and provides electric delivery service to approximately 1.6 million retail customers in Southeastern Pennsylvania. PECO is also the default service provider in its service territory, and currently provides electric generation service to approximately [_____] residential customers and approximately [_____] small commercial customers with annual peak loads less than 25 kW.
- 1.3 PECO is implementing this RFP in two stages. RFP Participants (“Participant”) must first qualify by submitting an application (an “Application”) to PECO demonstrating their qualifications, as described in detail in Section 3.2. These qualifications include a current EGS license issued by the Pennsylvania Public Utility Commission (“the PA PUC”) and the ability to comply with provisions of PECO’s Electric Generation Supplier Tariff (“Supplier Tariff”). As part of the qualifying process, a Participant will be required execute a Participant Agreement in which the Participant agrees to various requirements, including payment of a pro rata portion of the costs of this RFP in the event the Participant becomes an Opt-In Supplier.
- 1.4 Following qualification, Participants may submit a proposal (“Proposal”) which consists of two components: (1) the maximum number, if any, of residential customers to which the Participant is prepared to offer its fixed price product; and (2) the maximum number, if any, of small commercial customers to which the Participant is prepared to offer its fixed price product. The initial four months of the fixed-price product offered by a Participant

must be five percent (5%) lower than the PECO's applicable price-to-compare for the quarterly period beginning on June 1, 2013 (the "June 2013 PECO PTC").

- 1.5 Residential Eligible Customers will be allocated to Opt-In Suppliers on a random basis with the assistance of an independent statistical consultant. If any Opt-In Supplier's initial allocation is greater than the maximum specified in its Proposal, the excess Eligible Customers will be allocated to the remaining Opt-In Suppliers whose maximums have not been reached or who did not specify a maximum. This process will be repeated until all residential Eligible Customers are assigned. If all Opt-In Suppliers specify maximums which are met and Eligible Customers have not yet been allocated, those Eligible Customers will not receive an offer. This same allocation process will be used for Eligible Customers that are small commercial customers (less than 25kW).
- 1.6 PECO will mail, at the Opt-In Supplier's expense, a standardized offer letter and prepaid return envelope to the allocated Eligible Customers for each Opt-In Supplier. If a customer wishes to accept the offer and become an Opt-In Supplier Customer, the customer will be required to contact the Opt-In Supplier and the Opt-In Supplier will then submit a switching request in accordance with the Supplier Tariff.
- 1.7 The PA PUC has approved the procedures and rules described in this RFP by order dated _____, 2012, in Pa. PUC Docket No. P-2012-_____. The RFP process will be managed by PECO. **Potential Participants are strongly urged to review this RFP and to consult with counsel with respect to requirements and obligations under this RFP and the Participant Agreement.**
- 1.8 This RFP includes the following attached documents:
 - Exhibit 1: Participant Application (including Participant Agreement)
 - Exhibit 2: Proposal Form

ARTICLE 2 SCHEDULE AND PARTICIPANT INFORMATION

- 2.1 RFP Schedule. The following table sets forth significant dates (the "Program Schedule") for the [~~Competitive~~] Offer Program. The time for each deadline on each specified date is 5:00 pm Eastern Prevailing Time (EPT). PECO reserves the right to modify these dates at its discretion.

RFP Overview and Pre-Proposal Technical Conference	January 18, 2013
Participant Inquiries Deadline	TBD
Participant Applications Due Date	February 6, 2013
Notification of Participant Qualification	February 11, 2013
Notification to Qualified Participants of Number of Eligible Customers (by rate class and rate)	February 19, 2013
Publication of Price-to-Compare beginning June 1, 2013 and notification of "Not-to-Exceed" Cost per Allocated Customer	March 14, 2013
Proposal Due Date	March 19, 2013
Notification of Final Participants and number of customer accounts assigned (by rate class and rate).	March 20, 2013
PECO Sends Offer Letters to Customers	April 1-15, 2013
Customer Opt-In Period	30 days
Deadline for Opt-In Supplier Submission of Customer Enrollments to PECO	May 20, 2013
Commencement of Supply by Opt-In Suppliers	Beginning June 1, 2013
Report by Opt-In Suppliers and PECO on Results of the Program	August 1, 2013
Each Opt-In Supplier must file the terms and conditions of its eight-month product offering with the PA PUC for review and approval	At least 45 days before offer for the eight-month product is extended to Opt-In Customers.
Each Opt-In Supplier must provide the eight-month product offering and associated notices to Opt-In Customers	In accordance with PUC regulations.
<u>Commencement of Supply by Opt-In Suppliers pursuant to each eight-month product offering</u>	<u>Beginning October 1, 2013</u>
Opt-In Suppliers mail \$50 bonus checks to all Opt-In Customers who have been participating in the Opt-In Program for four billing cycles	After customers qualify and in time for customers to receive bonus check before the end of the customer's fifth billing cycle.

2.2 RFP Overview and Technical Conference. On January 18, 2013, at ___ p.m. EPT, PECO will conduct a web conference to outline the Program, including the RFP process. PECO will notify all registered EGSs of the Participant conference by EGS bulletin and by email to the PA PUC/OCMO email distribution list. Potential Participants are urged to review this RFP, including exhibits, prior to the teleconference. PECO will answer questions raised at this teleconference to the extent possible. Any party wishing to participate in this web conference must send an e-mail to _____@peco-energy.com with the subject line "Opt-In[~~Competitive~~] Offer Program" PECO will provide participation information for the web conference by return e-mail.

2.3 Participant Inquiries. On or before the Participant Inquiries Deadline, Participants may submit questions to PECO via electronic mail (_____@peco-energy.com). To the extent possible, questions submitted prior to the RFP Overview Conference will be addressed by PECO at the web conference. Additional questions submitted and answered by PECO

thereafter shall be posted with answers. The person or company submitting the question shall not be identified. While PECO will review and attempt to answer questions in good faith, PECO reserves the right not to answer any question. The RFP Overview Conference and this Participant inquiry procedure are the exclusive methods for inquiring about this RFP, and questions submitted to individual PECO employees or the Company by other means will not be answered and may result in disqualification of the Participant.

- 2.4 Informational Website and Updates. PECO has established a website – [/www.peco.com/_____](http://www.peco.com/_____) – for electronic copies of RFP materials, posting of questions and answers, and other updates on this RFP. The website also includes the standard offer letter and other materials that will be used with customers by Opt-In Suppliers. Participants are encouraged to review this website regularly. In its sole discretion, PECO will endeavor to provide e-mail notification of important website updates to qualified Participants.

ARTICLE 3 PARTICIPANT QUALIFICATION

- 3.1 Participant Application. In order to submit a Proposal in response to this RFP, a Participant must submit a printed original and three printed copies of an Application for approval by PECO using the form attached hereto as Exhibit 2 (Participant Application). All Applications shall be submitted by overnight delivery to the submission address specified in Section 8.2. Applications which are incomplete, do not conform to the form attached hereto, or otherwise do not satisfy all requirements of this RFP shall not be considered. Submission of a Participant Application constitutes a Participant’s agreement to and acceptance of all terms and conditions of this RFP. An electronic copy of the Applications may be provided initially via electronic email to _____@peco-energy.com to meet the Participant application deadline as long as the required hard copies are received by 5:00 p.m. EPT the business day immediately following the application deadline day.
- 3.2 Participant Qualifications. In order to qualify to submit a Proposal, a Participant must demonstrate and document in the Application that it satisfies the following criteria (the “Participant Qualifications”):
- (a) The Participant is certified to serve load in the PECO territory at the time of the Participant Applications Due Date.
 - (b) The Participant agrees that any delayed charges must be billed pursuant to all applicable Electronic Data Exchange Working Group “Final Bill” implementation guidelines. No Program charges may be separately billed.
 - (c) The Participant certifies that it has the financial resources to make a bonus payment under the offer of \$50.00 to all customers who enroll with them and who remain with the Program for four complete billing cycles.
 - (d) The Participant certifies that it has the capability to provide customers with three ways to accept its offer: (1) processing a response post card from the customer, included in the offer mailing, and pre-populated with as much customer information as possible; (2) through calls on a toll-free phone

number provided by the Opt-In Supplier; and (3) through a website provided by the Opt-In Supplier.

- 3.3 Participant Agreement. Each Participant must also execute a Participant Agreement in the form included in the Participant Application. In the event the Participant does not become an Opt-In Supplier, the Participant Agreement will be returned to the Participant unexecuted by PECO.
- 3.4 Additional Information. PECO may, but is not obligated to, request additional information and materials from any Participant for evaluation of an Application. Information submitted by a Participant absent a request by PECO which is not in the nature of a correction or clarification to the Application will not be considered by PECO. If any information in an Application is no longer true, Participant shall immediately notify PECO of the changed information. Failure to provide such notification or respond to a request for additional information and materials may result in disqualification of the Participant and rejection of any Proposal [~~PECO shall have no duty to inform any Participant of any deficiency in its Application~~].
- 3.5 Application Evaluation and Notification of Applicants. PECO will evaluate each Application using a standard protocol for its completeness and satisfaction of the Participant Qualifications. PECO will provide each Participant with notice of its satisfaction or failure to satisfy the Participant Qualifications by the date for Notification of Participant Qualification set forth in Section 2.1 hereof. **In the notice of failure to satisfy the Participant Qualifications, PECO shall inform each Participant of any deficiency in its Application, which will result in disqualification of the Participant if such deficiency is not remedied within two business days after written notice.**
- 3.6 PECO Affiliates. Affiliates of PECO are permitted to submit Applications and to participate in this RFP to the same extent as any other entity.

ARTICLE 4 PROCEDURE FOR SUBMISSION OF PROPOSALS

- 4.1 Notification of Number of Eligible Customers, Price-to-Compare, and “Not-to-Exceed” Cost per Allocated Customer. In accordance with the Program Schedule, PECO will provide qualified Participants with the following information: (1) the total number of Eligible Customers (by rate class and rate); (2) the applicable June 2013 PECO PTCs; and (3) a “Not-to-Exceed” Cost per Allocated Customer. Qualified Participants will not be required to submit Proposals until this information has been provided. The “Not-to-Exceed” cost or actual cost (whichever is lower) will be the cost used to invoice Opt-In Suppliers to recover the cost of the Program.
- 4.2 Submission of Proposals. As described in the Introduction, a Proposal consists of two components: (1) the maximum number, if any, of residential customers to which the Participant is prepared to offer its fixed-price product; and (2) the maximum number, if any, of small commercial customers to which the Participant is prepared to offer its fixed-price product. The initial four months of the fixed-price product offered by a

Participant must be five percent (5%) lower than the applicable June 2013 PECO PTC. Only Participants who submit an Application and receive notice of qualification as provided in Article 3 will be permitted to submit a Proposal. PECO will provide Proposal forms to qualified Participants substantially in the form of Exhibit 2. A Participant must submit an original and two copies of its Proposal to the address specified on the Proposal form provided by PECO no later than the Proposal Due Date. Each Proposal shall be submitted in a sealed envelope clearly marked "OPT-IN OFFER PROPOSAL."

- 4.3 Price. The price in all Proposals must be a fixed price in cents per kilowatt-hour, which is five percent (5%) lower than the June 2013 PECO PTC. The price is the price at which the supplier must be ready and willing to serve a residential or small commercial customer for four monthly billing periods under the standard terms and conditions of the Program beginning on a customer's next meter read date on or after June 1, 2013.
- 4.4 Reserved.
- 4.5 Reserved.
- 4.6 Other Limitations. Proposals that are incomplete, unsigned, or otherwise do not conform to the form of the Proposal shall be rejected by PECO. No Proposal may be conditioned on any other Proposal. Any bid that is contingent in any way shall be rejected as non-conforming. Each Participant must act independently and without knowledge of other bids, and PECO may reject any Proposal which it determines, in its sole discretion, is submitted by a Participant in violation of these limitations or in coordination or in concert with any other Participant. Nothing in this RFP shall restrict a Participant from seeking relief from the PA PUC in the event that the Participant believes that PECO has not acted in accordance with the terms of this RFP.

ARTICLE 5 EVALUATION OF PROPOSALS

- 5.1 Evaluation of Proposals. PECO will evaluate Proposals to ensure consistency with these RFP rules. All compliant Proposals will be accepted. Once a Proposal is accepted, the qualified Participant becomes an Opt-In Supplier.
- 5.2 Selection of Successful Participants. Upon completion of the evaluation of Proposals, the PECO shall prepare a report of the RFP results, summarizing the Participant qualification process and the Proposals and identifying the successful and unsuccessful Participants (if any), along with successful and unsuccessful Proposals (if any). PECO will notify Participants of their individual results and will provide the RFP report to the PA PUC, the OSBA, and the OCA, on a confidential basis, for their information.

ARTICLE 6 CUSTOMER ALLOCATION AND CUSTOMER OFFERS

- 6.1 Allocation Methodology. Eligible Customer accounts shall be selected for allocation to Opt-In Suppliers as described in Section 1.5 pursuant to a random selection process employed by a neutral independent third party who has expertise in the use of established

statistical procedures for random selection (the “Statistical Expert”). Prior to such selection, Opt-In Suppliers shall be entitled to review the random selection and allocation methodology and procedure with the Statistical Expert and PECO.

6.2 Provision of Customer Accounts. Not later than two (2) business days following the selection and allocation of Eligible Customer accounts by the Statistical Expert, PECO shall provide each Opt-In Supplier a list of customer accounts with account information (including account number, rate class, and rate) for the customer accounts selected by the Statistical Expert for offers from that supplier.

6.3 Offer Process. All Opt-In Suppliers shall provide offers to their allocated customers in the following manner:

6.3.1 At the sole expense of the Opt-In Supplier, determined based on the lesser of the “Not-to-Exceed” cost or actual cost and the number of allocated customers, PECO shall mail all of an Opt-In Supplier’s allocated customers an offer package which includes an offer letter with the 4-month fixed price which is 5% lower than the June 2013 PECO PTC, a description of the Program terms and conditions for the 4-month offer, an explanation that the Opt-In Supplier will provide a fixed-price offer for the subsequent 8 month period in advance of the end of the 4-month period, and the procedure by which the customer can accept the initial 4-month offer. This procedure shall include three ways to accept the 4-month offer: 1) a response post card, included in the offer mailing, and pre-populated with as much customer information as possible; 2) a toll-free phone number provided by the Opt-In Supplier; and 3) a website provided by the Opt-In Supplier. The offer shall be valid until the end of the Customer Opt-In Period specified in the Program Schedule. The Opt-In Supplier shall provide PECO with the following information, within three business days of being notified as a final Participant: mailing address for the response post card; toll-free phone number for enrollments under the Program; and website address for enrollments under the Program. The offer package will instruct the customer to contact the Opt-In Supplier for more information and to enroll in the Program, and will not include a PECO phone number. Offer packages will provide information about the customer participation cap. The PA PUC staff, OCA, OSBA, and EGSs will have the opportunity to review a draft of the Offer Package template. PECO will make a good faith effort to resolve all feedback and will provide a final version by February 19, 2013.

6.3.2 The offer packages will be mailed by PECO at a rate of approximately 50,000 mailings per day in accordance with a schedule provided by PECO based on the number of Opt-In Suppliers, the number of total offers and the billing cycles of the Eligible Customers.

6.3.3 As described in Section 6.3.1, customers will be able to accept an Opt-In Supplier offer by either mailing the enrollment post card to the Opt-In Supplier, or by calling the Opt-In Supplier, or by submitting information electronically on the Opt-In Supplier’s website. Contact information for PECO will not be included in the offer package; however, PECO will process any timely “Opt-In” requests it receives

from default service customers by notifying the Opt-In Supplier of the customer's decision to participate in the Program.

- 6.3.4 Offers are open to default service residential and small commercial customers and shopping residential and small commercial customers. If PECO receives a request to enroll by a shopping customer who becomes aware of the offer, PECO will notify the Opt-In Supplier of the customer's request. PECO will enable the customer to select from participating Opt-In Suppliers if the customer does not specify a particular Opt-In Supplier during the inquiry.
- 6.3.5 The Program will cap customer participation at 50% of Eligible Customers in a particular rate class as follows. Each Opt-In Supplier may enroll a number of customers up to 50% of the number of customers allocated to the Opt-In Supplier in a particular rate class under the Program. Opt-In Suppliers shall be solely responsible for administering this requirement.
- 6.4 EDI Enrollment. Opt-In Suppliers must submit the EDI enrollment transactions for the customers who have accepted the supplier's offer to PECO on or before sixteen (16) days prior to the respective customer's meter read date to ensure that the customer's switch is effective as of that date.
- 6.5 Reporting to PA PUC. In order for PECO to comply with its reporting obligations to the PA PUC (which includes providing a confidential copy to the Office of Consumer Advocate and the Office of Small Business Advocate) and in accordance with the Program Schedule, each Opt-In Supplier shall prepare and submit a confidential report to PECO, with the following Program Statistics. Any tracking of enrolled accounts after allocation will be the sole responsibility of Opt-In Suppliers:
 - 6.5.1 Number of customer accounts sent 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%).
 - 6.5.2 Upon PECO's request, each Opt-In Supplier shall prepare and submit this confidential report to PECO within thirty days of the conclusion of the Program.

ARTICLE 7
OPT-IN SUPPLIER STANDARD TERMS AND CONDITIONS

The following standard terms and conditions shall apply to all Opt-In Suppliers:

- 7.1 All Opt-In Supplier billing for customers who accept offers under the Program shall be Consolidated EDC Billing.
- 7.2 Each customer shall have the option to return to PECO default service or to switch to another EGS, or to the Opt-In Supplier under a different offer, at any time and without incurring switching fees or other penalties.
- 7.3 The Opt-In Supplier shall pay a fifty dollar (\$50.00) bonus payment to any and all customers who remain with the Program for four complete billing cycles as a condition for receiving the bonus.
- 7.4 The bonus shall be in the form of a check to the customer name on the account, and mailed to the billing address for the account.
- 7.5 All bonus checks shall be mailed shortly after the customer completes four complete billing cycles on the program, and such that the customer receives the check before the end of the subsequent billing cycle.
- 7.6 The Opt-In Supplier may not impose any additional requirements on the customer as a condition of receiving the bonus payment.
- 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 Office of Consumer Advocate and/or the Office of Small Business Advocate, 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).
- 7.9 Any offers made by a customer's Opt-In Supplier to the customer to switch to another product before the completion of the four billing cycles required to qualify for the bonus check shall include clear language explaining the risk of forfeiting the bonus.
- 7.10 The Opt-In Supplier shall have sole responsibility to make bonus payments. PECO has no liability to the customer for bonus payments if the Opt-In Supplier defaults on its obligation.

- 7.11 Only PECO shall be entitled to terminate service to customers for non-payment of EGS charges under the terms of its approved Purchase of Receivables program. Except as otherwise permitted in the Supplier Tariff, in no event may an Opt-In Supplier discontinue service to a customer who accepted its offer under the Program before the end of the Opt-In Service Period.
- 7.12 Each Opt-In Supplier must offer an eight-month fixed price product, with terms and conditions, for the eight months immediately following the initial 4-month 5% discount period. Such offers and associated notices of any renewal and/or price change shall be as required under PA PUC regulations and orders.
- 7.13 Each Opt-In Supplier must file the terms and conditions of its eight-month product offering with the PA PUC at least forty-five days before the offers for the *eight-month fixed price product* are extended to customers. An EGS that elects to participate in the Opt-In Program *may* submit its filing in advance of that deadline (including the submission of its filing before its initial customer offer letter is mailed), but will not be required to do so.
- 7.14 All Opt-In Suppliers must provide notice prior to the end of the Opt-In Service Period regarding any renewal and/or price change as required under PA PUC regulations and orders.
- 7.15 Notwithstanding any language in Rule 19.5 of the Supplier Tariff to the contrary, an Opt-In Supplier shall not have the right to terminate service to its customers obtained through this Program because of a change in applicable rules, regulations, tariffs, or orders.

ARTICLE 8 ADDITIONAL PROGRAM PROVISIONS

- 8.1 RFP Costs. All estimated costs of this RFP incurred by PECO, including the service of the Statistical Expert, and all incremental costs of developing, printing, and mailing the offer package (including return postage) will be used to develop a “Not-to-Exceed Cost per Allocated Customer.” Each Opt-In Supplier shall be responsible for the product of: (1) the Not-to-Exceed Cost per Allocated Customer or actual cost per allocated customer (whichever is smaller); and (2) the number of Eligible Customers allocated to that Opt-In Supplier. PECO shall invoice each Opt-In Supplier within thirty days of the Opt-In Supplier receipt of its allocated customer list, with the amount due payable within thirty days of the date of the invoice. If an Opt-In Supplier fails to make the required payment, PECO may reduce the amount due to that Opt-In Supplier from that Opt-In Supplier’s next Purchase of Receivable payment by the Opt-In Program amount due (but not from that amounts are subject to a bona fide POR payment dispute).
- 8.2 Address for submissions. All submissions to PECO, unless otherwise communicated at the Participant Conference and subsequently posted to the _____ website, for this RFP shall be delivered via overnight delivery to the following address:

PECO [~~Competitive~~] Opt-In Supplier Program
c/o [Name],
PECO Energy Company
S14-2
2301 Market Street
Philadelphia, PA 19103

Participant is solely responsible for the timely delivery of any submission for this RFP. Applications and other materials received after the applicable date specified in this RFP shall be accepted only in PECO's sole discretion; however, any Proposal submitted after the date and time specified will be returned unopened and without consideration. Electronic emails of materials other than Proposals (which may not be sent electronically) shall be sent to: _____@peco-energy.com.

- 8.3 No Unauthorized Modifications. No interpretation or change to this RFP shall be valid unless it is signed by a duly authorized representative designated by an Officer of PECO.
- 8.4 Ownership of RFP Materials. All materials submitted to PECO pursuant to this RFP shall be the property of PECO.
- 8.5 Presentation and Formatting. All information submitted by a Participant must be in the English language.
- 8.6 Costs. PECO shall have no responsibility whatsoever with respect to the costs of any Participant in considering or responding to this RFP, including but not limited to any costs of preparing any materials submitted to PECO.
- 8.7 Use of PECO Mark. PECO will have final approval regarding the use of any PECO mark and any other reference to PECO in the offer package and/or on the offer package envelope.
- 8.8 Publicity. Each Participant understands and agrees that PECO does not participate in, nor does it allow, Participants to utilize media releases of any kind to publicize Participant's business relationship with PECO. Each Participant shall not use any trade name, trademark, service mark or any other information which identifies PECO in such Participant's sales, marketing and publicity activities, including interviews with representatives of any written publication, or television or radio station or network, without PECO's express prior written consent. For all other other references to PECO not requiring PECO's prior consent, the references must be factual and cannot infer an endorsement by or affiliation with PECO
- 8.9 Disclaimer. PECO makes no representations or warranties regarding the accuracy or completeness of the information contained in this RFP and its exhibits or any statements made by representatives of PECO during the RFP process. Each Participant is responsible for making its own evaluation of information and data contained in this RFP and in preparing and submitting responses to this RFP. The issuance of this RFP and the receipt

of information in response to this RFP shall not, in any way, cause PECO to incur any liability (whether contractual, financial or otherwise) to any Participant participating in the RFP process. By submitting an Application, Participant releases PECO, its affiliates, officers, employees, and agents from any and all claims, demands, actions, losses, liabilities, and expenses (including reasonable legal fees and expenses) (collectively, "Claims") relating to this RFP and agrees to indemnify PECO, its affiliates, officers, employees and agents from any Claims arising from any false representation or violation of these RFP rules by Participant.

- 8.10 Not an Offer. This RFP is issued to elicit responses to PECO's inquiry and is not an offer. The issuance of the RFP and the submission of Participant's information do not create any obligation upon PECO, and PECO reserves the right to accept or reject any or all proposals received. PECO also reserves the right to amend, suspend, or terminate the RFP process at any time, without reason and without liability, and makes no commitments, implied or otherwise, that this process will result in a business transaction with one or more Participants. No contract or other binding obligation on PECO will be implied unless and until an agreement has been executed on terms and conditions acceptable to PECO. PECO also reserves the right to not execute agreements with any or all Participants should the Company determine, in its sole discretion, that such agreement would violate existing regulatory standards.
- 8.11 Non-conforming Applications and Proposals. PECO reserves the right to reject any Application or Proposal at any time on the grounds that it does not conform to the terms and conditions of this RFP or the Participant has not complied with the provisions of this RFP.

EXHIBIT 1 - FORM OF PARTICIPANT APPLICATION

Name of Participant:			
Contact:		Title:	
E-mail:		Phone:	
Address:	City:	State:	Zip Code:

INSTRUCTIONS

Two signed originals of Attachment A (Participant Agreement) must be attached to Participant's original Application, with a copy attached to each of the three required additional copies. All terms used herein have the meaning set forth in PECO's Opt-In [~~Competitive~~] Offer Program Request for Proposals and Program Rules.

As an officer or other authorized representative of the Participant, I certify that: (a) the Participant is certified to serve load in the PECO territory at the time by the Participant Applications Due Date; (b) the Participant agrees that any delayed charges must be billed pursuant to all applicable Electronic Data Exchange Working Group "Final Bill" implementation guidelines, and no Program charges may be separately billed; (c) the Participant certifies that it has the financial resources to make a bonus payment equal to \$50.00 to each customer who enrolls with them and who remain with the Program for four complete billing cycles; and (d) the Participant certifies that it has the capability to provide customers with three ways to accept its offer: (1) *processing a response post card from the customer, included in the offer mailing, and pre-populated with as much customer information as possible*; (2) through calls on a toll-free phone number provided by the Opt-In Supplier; and (3) through a website provided by the Opt-In Supplier.

SIGNATURE OF AUTHORIZED REPRESENTATIVE

I am an officer or other authorized representative of the Participant and certify that all of the information and certifications in this Application are true and acknowledge that this submission constitutes acceptance and agreement to all terms of the RFP.

Signature:	Date:
Name:	Title:

EXHIBIT 1 - ATTACHMENT A - FORM OF OPT-IN SUPPLIER AGREEMENT

AGREEMENT

This Agreement (“Agreement”) is made as of March 22, 2013 (the “Effective Date”), by and between [Opt-In Supplier] and PECO Energy Company, a public utility authorized to supply electric service in the Commonwealth of Pennsylvania (“PECO”) (each a “Party”, and collectively “the Parties”).

- 1. Definitions.** All capitalized terms not otherwise defined herein shall have the meaning set forth in the Electric Generation Supplier Opt-In [Competitive] Offer Program Request for Proposals and Program Rules issued by PECO on January 18, 2013 (the “Program”) and PECO’s Electric Generation Supplier Coordination Tariff (the “Supplier Tariff”).
- 2. Term.** This Agreement shall commence on the Effective Date and shall remain in effect through the Opt-In Service Period (the “Term”) unless terminated as provided in this Agreement.
- 3. Opt-In Enrollment Offer.** In accordance with the Program, PECO shall mail a standardized offer letter for electric generation service to the Eligible Customers allocated to the Opt-In Supplier.
- 4. Fixed Price to Customers.** In accordance with the Program, the Opt-In Supplier shall provide fixed-price Competitive Energy Supply for a twelve-month period to each customer that accepts its offer under the Program (an “Opt-In Supplier Customer”). The initial four months of the fixed-price product must be five percent (5%) lower than the applicable June 2013 PECO PTC.
- 5. Bonus Payment.** In accordance with the Program, the Opt-In Supplier shall pay a fifty dollar (\$50.00) bonus payment to any and all customers who remain with the Program for four complete billing cycles at the Opt-In Supplier’s sole expense. PECO will have no obligation whatsoever with respect to the bonus payment due to any customers, which shall be the sole responsibility of the Opt-In Supplier.
- 6. Terms and Conditions.** During the Term, the Opt-In Supplier agrees that: (a) all Opt-In Supplier billing for each Opt-In Supplier Customer shall be Consolidated EDC Billing; (b) each Opt-In Supplier Customer shall have the option to return to PECO default service or to switch to another EGS, or to the Opt-In Supplier under a different Opt-In Supplier offer, at any time and without incurring switching fees or other penalties; (c) only PECO shall be entitled to terminate service to Opt-In Supplier Customers for non-payment of EGS charges under the terms of PECO’s approved Purchase of Receivables program in the Supplier Tariff; (d) except as otherwise permitted in the Supplier Tariff, in no event may an Opt-In Supplier discontinue service to an Opt-In Supplier Customer before the end of the Opt-In Service Period; (e) the Opt-In Supplier shall provide notice to the Opt-In Supplier Customer prior to the end of the Opt-In Service Period regarding any renewal and/or price change as required under the Supplier Tariff and/or PA PUC regulations or Policy Statements; and (f) notwithstanding any language in Rule 19.5 of the Supplier Tariff to the contrary, an Opt-In Supplier shall not have the right to terminate service to its customers obtained through this Program because of a change in applicable rules, regulations, tariffs, or orders.
- 7. Representations and Warranties of Opt-In Supplier.** The Opt-In Supplier represents and warrants that, on the Effective Date and throughout the Term: (a) it is certified to serve load in the PECO territory at the time of Participant Applications Due Date; and (b) any delayed charges must be billed pursuant to all applicable Electronic Data Exchange Working Group “Final Bill” implementation guidelines.
- 8. Termination.** This Agreement may be terminated by PECO upon written notice of a material breach of this Agreement by the Opt-In Supplier.

9. Payment of Program Costs. All estimated costs of this RFP incurred by PECO, including the service of the Statistical Expert, and all incremental costs of developing, printing, and mailing the offer package will be used to develop a “Not-to-Exceed Cost per Allocated Customer.” Each Opt-In Supplier shall be responsible for the product of : (1) the Not-to-Exceed Cost per Allocated Customer or actual cost per Allocated Customer (whichever is smaller); and (2) the number of Eligible Customers allocated to that Opt-In Supplier. PECO shall invoice each Opt-In Supplier within thirty days of the Opt-In Supplier receipt of its allocated customer list, with the amount due payable within thirty days of the date of the invoice. If an Opt-In Supplier fails to make the required payment, PECO may reduce the amount due to that Opt-In Supplier from that Opt-In Supplier’s next Purchase of Receivables payment by the Opt-In Program amount due (but not from amounts that are subject to a bona fide POR payment dispute).

10. Limitations. Notwithstanding any provision of this Agreement or the Program, the Opt-In Supplier acknowledges that (a) the Opt-In Supplier has obtained certain benefits from participating in the Program, but that PECO has made no representation regarding the number of customers (if any) the Opt-In Supplier may obtain as a result of the Program, or the amount of electric load that will be required by such customers; (b) PECO has no obligation to provide electric supply other than default service in accordance with the Pennsylvania Public Utility Code to any customer that may be served by the Opt-In Supplier in the event that the Opt-In Supplier no longer serves that customer for any reason; and (c) the Opt-In Supplier waives any right to claim any loss of business, consequential damage or any monetary or other direct damages from PECO of any kind whatsoever arising from or relating to this Agreement or the Program.

11. Indemnification. The Opt-In Supplier shall indemnify, save and hold PECO harmless from and against any and all third party losses, costs, liabilities, damages and expenses (including, without limitation, attorneys’ fees and expenses) incurred or suffered as a result of or in connection with the Opt-In Supplier’s material breach of this Agreement, failure to comply with any applicable laws, or intentional, negligent or willful misconduct.

12. Other Provisions. This Agreement represents the entire agreement between PECO and Opt-In Supplier and no amendment of this Agreement will be valid unless in writing and signed by representatives of both parties. Each Party represents that this Agreement is a legally valid and binding obligation enforceable against it in accordance with its terms, and that the execution, delivery and performance of this Agreement are within its powers and have been duly authorized by all necessary action and do not violate any terms and conditions in its governing documents, any contracts to which it is a party, or any applicable law, rule, regulation or order. Neither Party may assign this Agreement without consent of the other Party, not to be unreasonably withheld. All notices required under this Agreement shall be provided to the parties and addresses listed directly below or to such other address as either party may designate from time to time by providing written notice to the other Party. Nothing in this Agreement is intended to convey benefits, rights or remedies to any person other than Opt-In Supplier and PECO, and no third party shall have the right to enforce the provisions of this Agreement, except that the PA PUC may enforce the provisions of this Agreement, the Program, the Supplier Tariff and any provision of the Pennsylvania Public Utility Code or PA PUC regulations applicable to this Agreement. This Agreement is not intended to create any partnership or joint venture between PECO and the Opt-In Supplier, and neither Party shall have the power to bind or obligate the other Party. In the event that any provision of the Agreement shall be found to be void or unenforceable, such findings shall not be construed to render any other provision either void or unenforceable, and all other provisions shall remain in full force and effect unless the provisions which are void or unenforceable shall substantially affect the rights or obligations granted to or undertaken by either Party. This Agreement shall be construed according to the laws of the Commonwealth of Pennsylvania, without regard to its conflict of laws provisions. In the event of any conflict between this Agreement, the Program, and the Supplier Tariff, this Agreement shall be controlling.

PECO ENERGY COMPANY

By: _____

Name: _____

Title: _____

PECO Energy Company

ATTN:

2301 Market Street

Philadelphia, PA

Phone:

Fax:

E-mail: _____@peco-energy.com

[OPT-IN SUPPLIER]

By: _____

Name: _____

Title: _____

[Company name]

[Address]

Phone:

Fax:

E-mail:

**EXHIBIT 2
PROPOSAL FORM**

(not to be submitted with Participant Application)

Legal Name of Participant:

RESIDENTIAL CUSTOMER PROGRAM:

Fixed Price for initial four monthly billing cycle periods: (xx.xx cents/kwh): (amount to be specified and equal to 0.95 x the June 2013 PECO PTC)

Desired Number of Allocated Eligible Customers (CHECK ONE):

- We do not wish to participate in the Residential Customer Program
- No Maximum
- Maximum of _____ Eligible Customers (specify maximum)

SMALL COMMERCIAL CUSTOMER PROGRAM (with annual peak loads less than 25 kW):

Fixed Price for initial four monthly billing cycle periods (cents/kwh): xx.xx (different prices for different rates will be specified equal to the June 2013 PECO PTC for each small commercial customer rate class)

Desired Number of Allocated Eligible Customers (CHECK ONE):

- We do not wish to participate in the Small Commercial Customer Program
- No Maximum
- Maximum of _____ Eligible Customers (specify maximum)

I hereby certify that I am an officer or other authorized representative of the Participant named above and submit this Proposal on behalf of the Participant. By submitting this Proposal, Participant acknowledges and accepts all terms of PECO's Request for Proposal dated _____.

By: _____
Name: _____
Title: _____
Date: _____

Document comparison by Workshare Professional on Monday, January 07, 2013 2:27:43 PM

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Document 2 ID	interwovenSite://MCW1/DB1/72122386/9
Description	#72122386v9<DB1> - Revised Opt-In Rules (1-07)
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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

CERTIFICATE OF SERVICE

I hereby certify and affirm that I have this day served copies of the **Reply Comments of PECO Energy Company Regarding its Revised Default Service Plan Compliance Filing** on the following persons in the matter specified in accordance with the requirements of 52 Pa. Code § 1.54.

VIA ELECTRONIC MAIL AND FIRST CLASS MAIL

Honorable Dennis J. Buckley
Administrative Law Judge
Office of Administrative Law Judge
400 North Street
P.O. Box 3265
Harrisburg, PA 17105
debuckley@pa.gov

RECEIVED

JAN 7 2013

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

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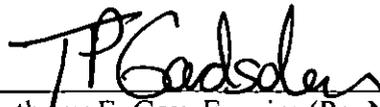
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Thomas P. Gadsden, Esquire (Pa. No. 28478)
Kenneth M. Kulak, Esquire (Pa. No. 75509)
Brooke E. McGlenn, Esquire (Pa. No. 204918)
Morgan, Lewis & Bockius LLP
1701 Market Street
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Phone: 215.963.5234
Fax: 215.963.5001
E-mail: tgadsden@morganlewis.com

Counsel For PECO Energy Company

Dated: January 7, 2013

FedEx carbon-neutral envelope shipping

EXPRESS

ORIGIN ID: REDA (215) 963-5317
MAILROOM
MORGAN LEWIS & BOCKIUS LLP
1701 MARKET STREET

SHIP DATE: 07JAN13
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CAD: 0684922/CAFE2605

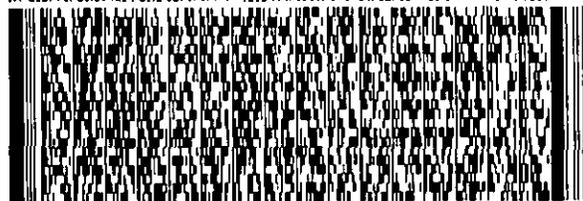
PHILADELPHIA, PA 19103
UNITED STATES US

BILL SENDER

TO ROSEMARY CHIAVETTA
PA PUBLIC UTILITY COMM
COMMONWEALTH KEYSTONE BUILDING
400 NORTH STREET
HARRISBURG PA 17120

51261/ARRO/TF60

REF: 00705 - 001515 - 0029



FedEx Express



51261/ARRO/TF60

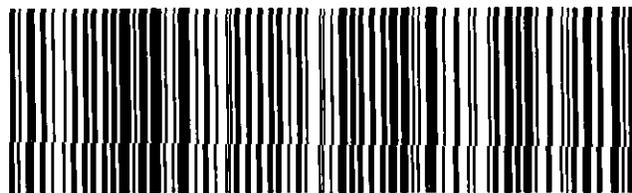
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PRIORITY OVERNIGHT

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PA-US MDT

Part # 156148-434 RIT2 07/12 *



TPG #00705 #001515-0029

1701 Market Street
Philadelphia, PA 19103-2921

Morgan Lewis
COUNSELORS AT LAW

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

Envelope

TO: CHIAVETTA, R. PUC (CHIAVET
Agency: PUC
Floor:
External Carrier: FedEx Express

1/8/2013 10:16:06 AM



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