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January 14, 2013

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

**RE: Petition of PECO Energy Company for Approval of its Default Service Program,
P-2012-2283641; PECO Energy Company Universal Service and Energy
Conservation Plan for 2013-2015, M-2012-2290911**

Dear Ms. Chiavetta:

Enclosed for filing with the Commission is the Prehearing Conference Memorandum of PECO Energy Company in this docket.

I have enclosed a Certificate of Service showing that a copy of the above document was served on the interested parties. Thank you for your time and attention on this matter.

Sincerely,



**Ward L. Smith
Assistant General Counsel**

**Attachments
WS/lo**

**cc: (PDF and Word-compatible versions; e-mail only)
Administrative Law Judge Cynthia Fordham Williams
Certificate of Service**

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of PECO Energy Company for Approval of its Default Service Program	:	:	P-2012-2283641
PECO Energy Company Universal Service and Energy Conservation Plan for 2013-2015	:	:	M-2012-2290911

**PREHEARING CONFERENCE MEMORANDUM
OF PECO ENERGY COMPANY**

PECO Energy Company (“PECO”) submits this prehearing conference memorandum pursuant to the January 9, 2012 Prehearing Order of Administrative Law Judge Cynthia Williams Fordham. The Prehearing Order directs the parties to address the following issues:¹

- 1) A proposed plan and schedule of discovery;
- 2) Possibility of settlement;
- 3) Issues;
- 4) Amount of hearing time needed;
- 5) Witnesses;
- 6) Schedule for submission of testimony, hearings and briefs; and
- 7) any other appropriate matter.

1. Issues to be addressed:

On November 8, 2012, the Commission issued a Tentative Order in PECO’s Three-Year Plan proceeding at Docket No. M-2012-2290911, seeking comments on whether certain matters related to PECO’s Three-Year Plan for 2013-2015 should be referred to the Office of Administrative Law Judge (“OALJ”) for examination and record

¹ For reasons that PECO’s believes will be apparent upon reading its memorandum, it has addressed these issues in a different sequence than listed in the Prehearing Order.

development of material factual issues. On January 3, 2013, the Commission issued a Secretarial Letter assigning this matter to the OALJ for that purpose.

PECO believes that the issues to be addressed in this proceeding are the issues raised in the Commission's Tentative Order and Secretarial Letter, as well as any subsidiary factual issues raised by the parties in their written comments to the Commission.

PECO believes that these issues fall broadly into three categories: (a) affordability, cost, and structure of PECO's Customer Assistance Program ("CAP"); (b) other program design issues; and (c) relationship to CAP shopping.

a. Affordability, cost, and structure of PECO's Customer Assistance Program ("CAP")

The first category encompasses broad issues related to the *affordability, cost, and structure of PECO's Customer Assistance Program ("CAP")* which provides discounted rates to low-income customers. On October 31, 2012, PECO filed with the Commission a "six-year evaluation" of its CAP rates prepared by the third-party assessor APPRISE. That evaluation indicated that, using some measures of affordability, PECO's CAP program is not delivering affordable utility bills to many of its low-income customers. The Tentative Order thus generally requested comments on whether, and to what extent, PECO's CAP program should be enhanced to provide additional affordability. The Tentative Order inquired whether additional funds should be devoted to the CAP program as well as whether the CAP program structure should be changed from its current tiered

CAP rate program to a percentage-of-income program (“PIP”) or other structural changes.

At the same time, the Tentative Order asked whether PECO’s CAP program is too costly and thus whether it should be scaled back in size.

These two broad themes – affordability of the rates provided by the program, and overall cost of the program – are nearly flip sides of the same coin. While PECO expects there will be discussion as to whether some of the existing CAP resources can be redeployed within the program to improve affordability without increasing program costs, PECO’s preliminary analysis is that there are *not* sufficient resources in the existing CAP program to accomplish affordability merely by redeploying existing resources. PECO thus anticipates that this proceeding will squarely present the question of whether additional financial resources should be devoted to PECO’s CAP program in order to move closer to, or attain, affordability.

PECO notes that it recovers such CAP costs – known as the “CAP shortfall” – from other residential customers on an ongoing basis through its Universal Services Fund Charge. PECO therefore also expects testimony to be presented on the effect of any program change on the bills of other residential customers.

PECO also notes that, in its comments previously filed in the Three-Year Plan docket, it estimated that some of the options on which the Commission requested

comments could cost many millions of dollars to implement, and then impose ongoing annual costs that could exceed \$10 million per year. PECO therefore expects testimony on the policy implications of adding, or not adding, those costs to its existing program.

Finally, PECO notes that this portion of the factual development will almost certainly require additional data from the third-party reviewer, APPRISE, that prepared the six-year evaluation of PECO's CAP program. That fact, in turn, may require a special discovery regime for this portion of the case. That is discussed further below in the discovery section of this prehearing conference memorandum.

b. Other program design issues

The Tentative Order, and the comments filed in the Three-Year Docket, contain extensive discussion regarding several program elements of PECO's Three-Year Plan. These issues include:

First, PECO's CAP application currently requires Social Security Numbers ("SSNs") for all household members in the applicant household. Numerous parties have suggested that this practice may improperly exclude low-income customers from the CAP program, or otherwise be inappropriate. PECO expects multiple parties to provide testimony or briefs on this issue, potentially coordinating those efforts with Community Legal Services.

Second, when a customer claims on their CAP application that they have no income, PECO currently requires that this statement be provided in a notarized letter. As

with SSNs, several parties have suggested that this acts as a barrier and have proposed, as an alternative, that PECO should use a process in which the customer describes how they are able to pay their bills, given that they have no income.

Third, the Tentative Order inquires whether PECO's Low-Income Usage Reduction Program ("LIURP") is properly funded and focused.

Fourth, in its comments PECO raised the question of whether it should adopt an asset test for eligibility for its CAP program, to eliminate the possibility of customers being CAP eligible even if they have no or low income but high levels of assets.

This list is not exhaustive, but provides a good overview of the types of other program design issues that the parties are likely to discuss in their testimony.

c. Relationship to CAP shopping.

The Commission ordered PECO, in its DSP-2 proceeding at Docket No. P-2012-2283641, to file a plan so that its CAP customers can participate in generation shopping. The January 3, 2013 Secretarial Letter states that PECO must file that plan by May 1, 2013.

The Tentative Order and the Secretarial Letter, as well as the comments filed in the Three-Year Plan proceeding, all note that there is a relationship between Three-Year Plan design issues and CAP shopping. At a minimum, the timing of implementation of CAP shopping, and to some extent the form that it can take, are driven by whether

PECO's CAP program continues from its current "tiered" rate program or whether a percentage-of-income ("PIP") approach is used. The Secretarial Letter specifically notes this relationship. The accelerated schedule of the instant litigation is largely due to the fact that the Commission's wishes to decide, by April 4, 2013, whether PECO will move forward on a tiered rate or PIP basis.

In order to assist the Commission in making this determination, PECO anticipates that it and other parties may need to introduce testimony describing whether, and to what extent, alternative structures (primarily tiers v. PIP) allow a timely shopping program to be implemented.

Of course, PECO does not currently have a specific shopping plan to evaluate – that plan will be filed with the Commission in May 2013, and be developed based upon information contained in the Commission's expected April 4, 2013 order in this proceeding. The testimony on this issue, from all parties, is thus likely to be broader and more general in nature.

2. Witnesses

As needed, PECO intends to call the following witnesses:

Ms. Lauren Feldhake
PECO Energy Company
2301 Market Street
Philadelphia, PA 19103
215-841-4000

Ms. Feldhake is PECO's Director of Customer Financial Operations. Ms. Feldhake has managerial responsibility for PECO's low-income programs, including its CAP program. PECO expects Ms. Feldhake to be its primary witness, and to present direct and reply testimony on all three of the general subject matters set forth above.

Mr. Scott Neumann
PECO Energy Company
2301 Market Street
Philadelphia, PA 19103
215-841-4000

Mr. Neumann is a Rates Engineer at PECO. Mr. Neumann may present testimony regarding cost recovery (*e.g.*, USFC). He may also provide testimony regarding the rate effects – that is, cost and affordability analyses – for CAP program alternatives. .

Mr. John McCawley and/or Ms. Carol Reilly
PECO Energy Company
2301 Market Street
Philadelphia, PA 19103
215-841-4000

Mr. McCawley is PECO's Director of Energy Acquisition and Ms. Reilly is PECO's Manager of Energy Acquisition Operations. If the "c" issues set forth above – relationship to CAP shopping – becomes an issue of large focus in this proceeding, then one or both will testify on those issues.

PECO may substitute other witnesses with the requisite technical expertise, depending upon scheduling availability. PECO also may supplement this list if additional issues surface in this proceeding.

3. Amount of hearing time needed; schedule for submission of testimony, hearings and briefs.

The January 3 Secretarial Letter provides that the record and briefs in this proceeding must be certified to the Commission on March 1, 2013.

The following parties informed PECO that they expect to sponsor witnesses and participate in evidentiary hearings: the Office of Consumer Advocate, TURN et al., and CAUSE-PA. Based on discussions with those parties, PECO believes that, given the March 1, 2013 certification date, the record in this proceeding will be best-developed by two rounds of simultaneously-exchanged written testimony, followed by two or three days of hearings, followed by the simultaneous exchange of a single round of main briefs. The parties noted above have agreed that the following schedule is workable:

Tuesday, January 15 – Prehearing conference

Monday, February 4 – All parties file written direct testimony – email service by 4:00 p.m.

Tuesday, February 12 – All parties file written reply testimony – email service by 4:00 p.m.

February 14 – Hearing day for “c” issues on the “relationship to CAP shopping” issues, if there is sufficient testimony on those issues to warrant a separate day.

February 15 and 19 – Hearing days for “a” issues (affordability, cost, and structure) and “b” issues (other program design), as well as “c” issues (relationship to CAP shopping) if not done on February 14. Witness lineup TBD

February 27 – Briefs to ALJ

March 1 – ALJ certifies record to Commission

4. Discovery

It is likely that all parties will need to be flexible regarding discovery in this proceeding.

For the “a” issues set forth above – affordability, cost, and structure of PECO’s Customer Assistance Program – immediately upon receiving the Secretarial Letter, PECO contacted the outside evaluator, APPRISE, that conducted the six-year evaluation of PECO’s program and which raised the affordability concerns noted by the Commission in its Tentative Order. PECO is currently working with APPRISE to develop data and analysis demonstrating affordability levels, and costs, for the following CAP program alternatives:

- a PIP with no usage controls or maximum discount control,
- a PIP with a control for maximum per-customer discount, applied on an individual customer basis,
- revision of PECO’s existing 6-tier CAP program to a more granulated 12-tier CAP program, and
- revision of PECO’s existing CAP program to 12 tiers, with additional adjustments to usage limits to reflect seasonality.

PECO spoke to the OCA and the low-income advocates and made some adjustments to these data analysis based on those discussions.

PECO currently expects that it will have the results of this analysis by approximately January 24. It will then share those results with the other parties and, to the extent that the parties wish to have a discussion with APPRISE, will facilitate that discussion. PECO has previously used similar methods for informal data exchange of

APPRISE results, and believes that it is an effective means of providing information to the other stakeholders.

To meet this timetable, however, the APPRISE database and professionals, as well as the PECO personnel who provide input data to APPRISE and who evaluate the results, will have to stay focused on those data runs. This means that PECO will not be able to begin any additional discovery regarding the APPRISE database until after those runs are complete. PECO respectfully submits that these data runs are of critical importance to all parties' evaluation of the issues in this proceeding. PECO therefore requests that it not be required to begin work on discovery requests using the above-noted resources until after it has completed the data runs set forth above.

There may be other data requests for the "a" issues that do not require use of the resources described above. Certainly, there are potential data requests related to the "b" and "c" issues that do not require the resources set forth above.

For these other issues, PECO recently received an inquiry as to whether it will commit to a seven-day answer period. PECO respectfully suggests that, while it will act quickly on discovery requests, all parties need to assist in dealing with the compressed time period of this litigation. To that end, PECO has suggested informally to the other parties, and reiterates here, that one of the best ways to get discovery answered early in the process is to ask it early in the process. As of today, PECO has not received any discovery. PECO realizes that the Secretarial Letter was only issued on January 3 – but,

at least for the parties who filed comments in the Three-Year Plan docket, those parties very recently had the opportunity to consider in detail what their positions and data needs are. PECO therefore requests that discovery be served upon it earlier, rather than later. By so doing, the need to have a compressed reply period will be mitigated.

With that said, PECO also recognizes that, on the schedule that it and other stakeholders are proposing at this time, direct testimony is due 14 business days/21 calendar days from today, and that an accelerated reply period is thus needed. PECO therefore agrees that it and the other parties should target a seven-day return period for discovery. In return, PECO respectfully requests that the parties respect that PECO took immediate steps to begin developing affordability and cost data that will be helpful to all parties in formulating their positions and that PECO also needs to write testimony during this period. PECO therefore requests that discovery be served as soon as possible, and that the parties use as much restraint as they can in choosing the number of questions to pose. Similarly, PECO will serve its limited discovery very shortly.

5. Settlement

PECO, the OCA, TURN et al., and CAUSE-PA have begun informal settlement discussions regarding CAP program design issues. The parties will continue to have those discussions throughout the accelerated schedule for this proceeding.

If other issues or other stakeholders are apparent after receipt of prehearing memoranda, PECO will also initiate discussions with those parties.

Conclusion

PECO respectfully requests that the ALJ issue an Order establishing the procedural matters as set forth in this prehearing conference memorandum.

Respectfully submitted,



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January 14, 2013

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of PECO Energy Company for Approval of its Default Service Program	:	:	P-2012-2283641
PECO Energy Company Universal Service and Energy Conservation Plan for 2013-2015	:	:	M-2012-2290911

CERTIFICATE OF SERVICE

I, Ward Smith, hereby certify that I have this day served a copy of PECO Energy Company's Prehearing Conference Memorandum in the above matter upon all interested parties by email, in both PDF and Word-compatible format, to the individuals listed in the attached Service List.

Dated at Philadelphia, Pennsylvania, January 14, 2013.



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P-2012-2283641 – Petition of PECO Energy Company for Approval of its Default Service Program; M-2012-2290911, PECO Energy Company Universal Service and Energy Conservation Plan for 2013-2015

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