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February 27, 2013

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

**Re: Petition of PECO Energy Company Approval of Its Default Service Program
and PECO Energy Company's Universal Service and Energy Conservation
Plan for 2013-2015 Submitted in Compliance with 52 Pa. Code §§ 54.74 and
62.4**

Docket No.: P-2012-2283641 and M-2012-2290911

Dear Secretary Chiavetta:

PECO's Main Brief in this matter is attached for filing.

Sincerely,

Ward L. Smith
Assistant General Counsel

Enclosures
WS/lo

cc: Administrative Law Judge Cynthia Fordham
Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION
Petition of PECO Energy Company for Approval Of its
Default Service Program**

Docket P-2012-2283641

**PECO Energy Company Universal Service and Energy Conservation
Plan for 2013-2015**

Docket M-2012-2290911

MAIN BRIEF OF PECO ENERGY COMPANY

FEBRUARY 27, 2013

Contents

I.	Introduction and Background	3
II.	PECO Should Remain With Its CAP Tier Program	5
	A. The Costs-To-Achieve a PIP are Substantial	5
	1. IT Transition Costs	5
	2. Retraining Costs	7
	B. The Ongoing Costs of a PIP Are Substantial	8
	1. Shortfall	8
	2. Exposure to Generation Volatility	10
	3. Ongoing Administrative Costs	11
	4. Loss of Benefits/Increase in Low-Income Terminations	12
	5. Loss of Conservation Signals	13
	C. A PIP Is Inconsistent With an April 1, 2014 Shopping Date	15
	1. Time to Achieve	15
	2. Incentive to Shop and Shop Well	15
	D. If Needed, PECO’s Tiered Program Can Be Adjusted to Provide Additional Benefits	
	1. PECO’s Tiered Program Is a Success	16
	2. Benefits Can Be Redeployed Between Tiers	20
	3. Usage Reduction Programs	20
	E. “Manipulation that undermines the regulatory objective”	21
	F. Aggregation	21
III.	Cost Recovery Through the USFC	26
IV.	Other Issues Listed in the Tentative Order or Raised By Witnesses	28
	A. Customer Confusion	28
	B. CAP A	29
	C. One-Year Arrearage Forgiveness	30
	D. Automatic Enrollment and LIHEAP	30
	E. Requiring a SSN and Notarized Statement	33
	F. CAP Credits	35
	G. LIURP	36
	H. Organizational Structure	40
	I. Asset Test	40
	J. Increasing the Size of CAP Population	42
V.	Conclusion	42

I. Introduction and Background

By Secretarial Letter issued on January 3, 2013, the Commission ordered PECO to implement two major changes to its Customer Assistance Program (“CAP”) by April 1, 2014. First, PECO must make such changes to its CAP and other universal services programs as the Commission deems necessary to improve the delivery of universal service benefits to PECO’s poorest customers. Second, PECO is required to implement shopping for its CAP customers.

The Secretarial Letter ordered a two-phase procedure for addressing these issues. The first phase, which is the subject of this brief, is an accelerated evidentiary proceeding “[t]o ensure that critical decisions about the structure of PECO’s CAP Plan are made before PECO has to file the Shopping Plan.” The first phase will culminate with the expected issuance, on April 4, 2013, of a Commission order deciding that structural issue. The second phase involves PECO filing its Shopping Plan on May 1, 2013.

Thus, although there are numerous other issues on which evidence was taken in this proceeding and which are addressed in this brief, the single most important question posed in this phase of the proceeding is what structure, or platform, PECO should use to deliver CAP benefits to its customers.

The evidence in this proceeding broadly presents two possible answers to that structural question. PECO’s current CAP program is tiered rate discount, in which customers receive varying amounts of discount on their electric bill depending upon their income, with the gradations of discount set for each 25% of the Federal Poverty Level (“FPL”) up to 150% of the FPL. The first option is to make adjustments within that framework. PECO and the OCA’s witness Roger Colton have expressed support for this approach. The primary, but not sole,

adjustment available under this framework is to expand the number of tiers from seven to twelve, change certain mechanics of the program to redeploy funds from the higher-income tiers to the poorest of the poor, and increase the monthly kWh usage to which the discount will be applied. (Currently, the discount is applied to the first 650 kWh per month; 750 kWh in summer months for some tiers. The 12-tier approach with limits set at one standard deviation from the norm would provide discounts to the poorest customers for the first 1300 kWh in summer months, 1125 in winter months, and 815 in shoulder months.)

The second option is to discard the existing tiered approach and utilize a percentage of income plan, or “PIP.” In a PIP, PECO would calculate a bill for each customer based on the customer’s income and family size. Depending upon where the customer’s income falls within the FPL guidelines – in other words, depending upon how poor the customer is – a monthly billing amount for that customer would be set. The customer would then be billed that amount regardless of the customer’s actual usage or the cost of providing service to that customer. Witnesses for TURN et al and CAUSE-PA have expressed support for the PIP approach. The OCA’s witness Roger Colton also suggested that further investigation of a PIP variation known as the “defined benefit” approach might be worthwhile.

As discussed below, the evidence in this proceeding demonstrates that PECO should remain with a tiered framework, making such adjustments as may be necessary to improve the delivery of CAP benefits within that framework. First, the costs-to-achieve a PIP, including IT transition costs and retraining costs, are substantial. Second, the CAP shortfall is larger for a PIP, with greater exposure to volatility from changes in generation market prices. Third, a PIP has substantial ongoing administrative costs that are not incurred in a tier program. Fourth, a PIP would strip benefits from 45,000 low-income customers and thus likely increase low-income

terminations. Fifth, because usage is not a billing determinant in a PIP, there are no conservation signals. Sixth, the time necessary to implement a PIP would mean delaying the onset of CAP shopping in PECO's service territory. Seventh, a PIP does not provide an incentive to shop, or to shop well. Eighth, PECO's existing program is already a success when measured by the amount of CAP bills paid and number of low-income terminations. Ninth, the metric of conformity to the PIP bill payment guidelines as a proxy of "affordability" provides a false precision that limits its usefulness. Tenth, any necessary improvements can be accomplished by redeployment of benefits within the existing tiered program. Eleventh, PECO's usage reduction programs should be given an opportunity to work. Twelfth, Dr. Peach's claim of "manipulation of the regulatory objective" in PECO's tier program was resoundingly disproven. Finally, even the discussion of aggregation, which is more appropriate for PECO's May filing in this proceeding, provides a basis for rejecting a PIP.

In the second main portion of this brief, PECO discusses the recovery of its universal service costs through the Universal Service Fund Charge.

In the third main portion of this brief, PECO summarizes the evidence and its position on other design issues raised in the Commission's Tentative Order.

II. PECO Should Remain With Its CAP Tier Program

A. The Costs-To-Achieve a PIP are Substantial

1. IT Transition Costs

Moving to a PIP would cause substantial IT transition costs. PECO witness Lauren Feldhake testified that the expected range of IT transition costs to move to a PIP is between \$7.7 million and \$12.8 million. PECO Statement No. 1, Direct Testimony of Lauren B. Feldhake, p. 10, line 16 to page 11, line 6. Moreover, this estimate is for PECO's electric CAP only; if PECO

also moved to a PIP for its gas service – and the evidence shows that the two programs must be coordinated on the same billing platform – the transition costs would be even more. PECO Statement No. 1, p. 11, lines 7-12. Indeed, even TURN’s witness Dr. Gil Peach testified that he would expect the IT transition costs to be approximately \$5 million. Transcript, pp. 234-235.

Ms. Feldhake’s testimony gives context to these numbers:

To provide some perspective, I note that PECO’s entire IT capital budget for 2013 is \$11.5 million capital (PECO has an additional IT O&M budget of \$4.2 million.) That is the IT capital budget for all of PECO, inclusive of operations, customer care, billing, metering, electric and gas choice and all other PECO functions. Adding a \$7.7 million to \$12.8 million spend for a PIP transition project would thus effectively double the size of the 2013 IT capital spend.

PECO Statement No. 1, p. 11, lines 15-20. The OCA’s witness Mr. Colton also provided context for the IT costs, stating that these costs, “if accurate, are substantial,” even if amortized over 5 years. OCA Statement No. 1, Direct Testimony of Roger Colton, p. 20, lines 14-16.

The evidence showed that these costs are accurate. The bottom of the range -- \$7.7 million – is the amount that PECO’s sister company Commonwealth Edison actually incurred when it moved to a much simpler PIP a few years ago. Transcript, 75-85; Exhibit LF-7. Moreover, PECO witness Scott Neumann testified that, at the time of Commonwealth Edison’s last base rate case, it had incurred \$5.7 million of these IT capital costs and they are being recovered in rates.¹ Transcript 135-138; Exhibit SN-7. The upper end of the range -- \$12.7 million – is based upon a detailed IT cost estimation tool. See PECO Exhibit 3, especially PECO’s Answers to TURN Set III, Qs. 9 and 11, which provide detail on the estimating tool.

¹ The remainder of the costs were incurred after the rate case filing and cost recovery will be sought in a future rate proceeding. Id.

By contrast, the IT transition costs to achieve a 12-tier program would be approximately \$1-\$3.3 million. PECO Statement No. 1, p. 7, Table 1.

In sum, the IT transition costs would be substantial. Ms. Feldhake testified that this single issue is significant enough to counsel against moving to a PIP.

Moreover, the changes would have to be implanted on a rush basis in order to meet the Commission's April 1, 2014 deadline for PECO to implement CAP shopping. Even if every aspect of the implementation were to go perfectly, that would still be a very significant increase in expenditure of IT resources. Moreover, such a large ramp-up of spending, hiring, and programming on a fast track basis would be fraught with risk, including the possibility of cost overruns, coding error, and delay. In my opinion, this issue alone is significant enough to counsel against moving to a PIP at this time.

PECO Statement No. 1, p. 11, line 20 to p. 12, line 5.

PECO also notes that, during this same period, the Commission has directed PECO to implement programs in other dockets, such as RMI and DSP, all of which require IT resources. The Company's ability to manage these multiple IT projects is not infinitely elastic. PECO respectfully requests that the Commission be cognizant of these multiple demands.

2. Retraining Costs

Ms. Feldhake also testified that moving to a PIP would cause PECO to incur approximately \$800,000 in retraining costs for both its own employees/contractors and for customer education. She contrasted this with approximately \$100,000 in retraining costs for a move to 12 tiers. PECO Statement No. 1, p. 12, lines 6-18. No other witness challenged this estimate.

B. The Ongoing Costs of a PIP Are Substantial

1. Shortfall

The term “shortfall” refers to the aggregate discount that is given to a utility’s entire CAP population. PECO Statement No. 1, Direct Testimony of Lauren B. Feldhake, p. 4, lines 15-16. This is the primary cost associated with any CAP program; in PECO’s case the shortfall exceeds \$75 million per year for all proposals that parties are advocating in this proceeding. *See* PECO Statement No. 1, p. 7, Table 1. PECO recovers its shortfall costs, with an offset for uncollectible expense and working capital, through its Universal Services Fund Charge, or USFC. PECO Statement No. 2, Direct Testimony of Scott A. Neumann, page 2, line 10 to page 3, line 11.

PECO calculated the projected shortfall for a variety of program designs using data from its 2012 CAP population and 1st quarter Generation Supply Adjustment (“GSA”) pricing. *See* PECO Statement No. 1, Direct Testimony of Lauren B. Feldhake, p. 7 and Exhibit LF-3. Using 1st quarter 2013 GSA, PECO’s current 7-Tier program and a PIP with minimum bill had approximately the same projected shortfall -- \$77.9 for the 7-Tier program vs. \$78.1 for the PIP with minimum bill.

However, the two programs react differently to changes in generation prices. In a PIP, a customer’s bill does not go up if generation prices increase – instead, the entire amount of the generation price increase flows through to the shortfall. In contrast, for a tiered rate discount program, the customer absorbs a portion of the cost of the generation price increase, and thus only part of the increase flows through to the shortfall. In order to determine the financial scope of this effect, PECO calculated the shortfall if generation prices were to change 10%, 15%, and 30%. (30% was chosen as the boundary of this sensitivity analysis because, in October

2011, PECO's GSA was 30% higher than in the 1st quarter of 2013. A 30% higher GSA is thus within the realm of recent experience.)

The results of the generation pricing analysis showed the expected outcome – as generation prices increase, a PIP quickly becomes much more expensive than a tiered program. The following data are extracted from PECO Statement No. 1, Direct Testimony of Lauren B. Feldhake, p. 7:

Table 1: A PIP Becomes Much More Expensive as Generation Prices Increase

Generation Change from 1 st Quarter 2013 GSA	7-Tier Program	PIP with minimum bill	Annual marginal cost of PIP
0%	\$77.9	\$78.1	\$0.2
10%	\$80.0	\$85.3	\$5.3
15%	\$81.9	\$88.8	\$6.9
30%	\$85.9	\$102.1	\$16.2

PECO also notes that, on February 14, 2013, it filed its GSA for the 2nd quarter of 2013. See PECO Energy Company Generation Supply Adjustment, Docket Nos. P-2008-2062739 & P-2012-2283641. PECO's 1st quarter GSA, which was used as the basis for the calculations set forth above, was \$0.0766 / kWh. Its proposed rate in the pending GSA filing is \$0.0858 / kWh. This is a 12% increase.

This demonstrates the exposure of a PIP to generation volatility, and provides an update of the true cost of a PIP. Assuming that the Commission approves PECO's 2nd quarter GSA²

² PECO requests that, once the Commission issues its order in Docket Nos. P-2008-2062739 & P-2012-2283641, it take administrative notice, pursuant to 52 Pa. Code §5.408, of its order approving new rates in that proceeding. Since that order will need to be issued sometime prior to the requested effective date for those rates of April 1, 2013, that notice will be operative prior to the Commission's April 4, 2013 order in this docket.

then, effective April 1, 2013 the PIP will approximately \$5.9 million per year more expensive than PECO's existing program:

Table 2: Expected PIP Marginal Cost if Commission Approves PECO's 2nd Quarter 2013 GSA

Generation Change from 1 st Quarter 2013 GSA	7-Tier Program	PIP with minimum bill	Annual marginal cost of PIP
0%	\$77.9	\$78.1	\$0.2
10%	\$80.0	\$85.3	\$5.3
12%³	\$80.8	\$86.7	\$5.9
15%	\$81.9	\$88.8	\$6.9
30%	\$85.9	\$102.1	\$16.2

PECO respectfully submits that, if the Commission wants PECO to spend an additional \$5.9 million per year on its CAP program, it can do so within the context of its existing tiered program. For example, as shown in Exhibit LF-3, this is the approximate cost of implementing the 12-tier program with seasonal usage limits set at one standard deviation from the norm for the poorest tiers. This will accomplish improved affordability with less sensitivity to generation price increases – and without incurring the IT transition costs and other costs-to-achieve.

2. Exposure to Generation Volatility

The immediately preceding section of this brief demonstrates that the costs of a PIP increase more rapidly than the costs of a tiered program when generation prices increase. It should be noted that this phenomenon was candidly admitted by Dr. Gil Peach, the chief proponent of a PIP in this proceeding. See TURN Statement No. 1, p. 14, line 17 to page 16, line 15. Moreover, Dr. Peach expects generation prices to increase. Id., p. 15, lines 11-12. Dr. Peach sees this as an advantage of a PIP, because it means that the PIP fully protects the low-income customer against all risk of change in generation prices. But the cost of that protection is

³ Interpolated as 2/5ths, or 40%, of the difference between the 10% and 15% figures.

that the full brunt of any change in generation prices is thus absorbed by the shortfall, which is primarily paid by other residential customers. All witnesses who discussed this issue agreed that a PIP works in that fashion and passes those costs through to other customers.

3. Ongoing Administrative Costs

Ms. Feldhake identified two ongoing administrative costs that would be incurred in a PIP that are not incurred in a tiered program. PECO Statement No. 1, p. 13, line 1 to p. 15, line 17. First, in a PIP customers would need to certify their income annually, rather than once every two years as in PECO's current program, at an additional annual cost of \$700,000 per year. Second, in a PIP PECO would effectively be setting 137,000 individual rates each year. In order to avoid having this impose ongoing manual costs, Ms. Feldhake expects that the IT transition costs, discussed above, would need to be at the high end of the range (that is, closer to \$12.8 million than to \$7.7 million.)

Dr. Peach testified that he sees no reason that PECO would need to move to annual certification in a PIP. However, Ms. Feldhake testified (id., p. 13, line 17 to p. 14, line 4) that in a PIP income is the *only* billing determinant (as compared to a tiered system, in which income, usage, and price are all used to determine the bill), and that therefore annual income certification would be appropriate.

It should be noted that the Commission's CAP Policy Statement, 52 Pa. Code §69.265(6)(viii), recommends an annual recertification program. PECO's two-year recertification period is outside the normal recommended range for the reasons identified by Ms. Feldhake. If income takes a much larger role in determining the benefits to flow to customers,

as it would in a PIP, Ms. Feldhake testified that a move to annual certification would be warranted. This would be consistent with Commission guidance.

Ms. Feldhake also testified that, to avoid the risk of doing 137,000 manual calculations, she would expect that the IT costs will be at the top of the range, or \$12.8 million. No witness responded to this testimony.

4. Loss of Benefits/Increase in Low-Income Terminations

Moving from PECO's current program to a PIP would strip an aggregate \$14.8 million of benefits from approximately 45,000 low-income customers in the 100-150% FPL tiers and redeploy those funds to assist a smaller number of the poorest of the poor. *See* PECO Statement No. 1, pp. 18-19. Ms. Feldhake testified that this would result in a net increase of approximately 1,500-2,000 low-income terminations per year. *Id.*, pp. 20-21 and Exhibit LF-1.

Other witnesses, including Dr. Peach, questioned whether there would be a net change in terminations, but no witness challenged whether 45,000 customers would be left without benefits.

Any plan to redeploy funds, including the 12-tier seasonality/standard deviation approach, would also cause some degree of loss of benefits in the higher tiers. (This is the mechanism by which all programs self-fund additional benefits to the lower tiers.) Nonetheless, PECO respectfully submits that the complete loss of benefits by 45,000 customers – nearly a third of the CAP population – should not be lightly allowed, and a PIP clearly leads to that result.

Moreover, while it is true that Ms. Feldhake's calculation of a net increase in terminations is an estimate, the steps of that estimate and the basis for each underlying

assumption are clearly set forth in Exhibit LF-1. PECO does not suggest that Ms. Feldhake's estimate is precise, but it is nonetheless persuasive that the net effect of moving to a PIP will directionally be to have more low-income terminations because 45,000 customers will lose benefits that will be redirected to approximately 27,000 customers.

5. Loss of Conservation Signals

Ms. Feldhake also testified that, because neither price nor usage is a billing determinant in a PIP, all conservation signals are lost. PECO Statement No. 1, p. 21-25. Ms. Feldhake testified that PECO is spending \$15.1 million on conservation in 2013 and that:

I believe that simultaneously removing all incentive to conserve for low-income customers is completely inconsistent with that \$15.1 million effort. I also believe that it is poor public policy to spend such significant amounts of funds to develop two such inconsistent programs on the same issue.

PECO Statement No. 1, p. 25, lines 5-9.

Dr. Peach agreed that, in a PIP, conservation price signals are eliminated. See TURN Statement No. p. 17, line 18 to p. 18, line 14. He suggests that this should not be a matter of concern because other conservation measures can be overlaid on a PIP to induce conservation. Id. Mr. Miller had similar testimony on this issue. CAUSE-PA Statement No. 1R, p. 8, line 7 to p. 9, line 11.

PECO agrees that it is important to have other conservation efforts, such as the Low Income Usage Reduction Program (LIURP) available to assist low-income customers in conservation and weatherization efforts. But the availability of such programs in no way suggests that the elimination of conservation price signals is thus somehow made acceptable. Eliminating price conservation signals for 137,000 existing CAP customers simply runs contrary to the Commission's long-standing and pervasive conservation and energy efficiency efforts.

Indeed, when the Commission implemented its final CAP Policy Statement in 1999, it noted that it was eliminating some of the then-existing usage and conservation controls because they had proven to be too clumsy and burdensome to implement and “[b]ecause many utilities’ payment plans are tied to usage, participants who conserve see a reduction in their bill.” 29 Pa. Bulletin 2945 et seq.

Mr. Miller suggests that there is no conflict between PIPs and conservation because the Commission has approved PIPs for numerous utilities. CAUSE-PA Statement No. 1R, p. 8, line 7 through p. 9, line 11. But Ms. Feldhake’s benchmarking analysis, found at Exhibit LF-2, shows that all of those programs except the PGW program have usage limits, and thus provide conservation signals. But no participant in this proceeding is advocating that PECO adopt a PIP with usage limits. Indeed, PECO’s analysis showed that a PIP with the most common usage limit (applying the maximum discount cost containment on an individual, rather than a system-wide, basis) would not improve affordability over PECO’s current program. See PECO Statement No. 1, p. 9, Table 4. Therefore, for the actual PIP that is being advocated in this proceeding – a “true” PIP with no usage limits – the Commission has approved one such program, the PGW program. And the PGW program is by far the most expensive in the Commonwealth, with a \$93 million shortfall for 82,000 customers, as compared to PECO’s existing shortfall of \$85 million for approximately 140,000 customers. See Exhibit LF-2. PECO respectfully submits that this is rather persuasive evidence that, in the absence of usage limits and associated conservation signals, the costs of a PIP should be expected to be quite high.

C. A PIP Is Inconsistent With an April 1, 2014 Shopping Date

1. Time to Achieve

Ms. Feldhake testified that, because of the significant IT transition effort that would be needed to move to a PIP, it would take 21-30 months to implement a PIP. PECO Statement No. 1, p. 8, Table 3, and p. 25, line 10 to p. 27, line 9. Consistent with this estimate, ComEd's PIP implementation timeline was from November 30, 2009 to November 30, 2011 – a period of 24 months. *See Exhibit LF-7.*

No witness challenged this timeline or suggested that a PIP could be implemented any earlier. Instead, Dr. Peach simply suggested that the Commission should delay implementing shopping until a PIP is implemented. TURN Statement No. 1, p. 12, line 19 to p. 13, line 12.

The expected 24-month implementation timeline would mean that PECO would not have a PIP in place until May 2015. Dr. Peach does not challenge this. He simply concludes that this delay is not a problem.

2. Incentive to Shop and Shop Well

Ms. Feldhake testified that, because a PIP customer's bill does not change after the customer chooses a new supplier, a PIP does not provide an incentive to shop – and that if the customer does choose to shop, there is no incentive to shop well, because the customer does not bear the consequences of that choice. Ms. Feldhake further testified that, in a PIP, the full consequences of a bad shopping decision become part of the shortfall and are thus recovered through the USFC. PECO Statement No. 1, p. 27, line 10 to p. 29, line 12.

This was primarily responded to by Dr. Peach, who candidly admitted that it is true. TURN Statement, p. 16, line 16 to p. 17, line 7. But he sees no problem from the perspective of

the CAP customer because: “the benefit obtainable by CAP customers is a psychic reward of improvement in sense of control by choosing a competitive vendor or by moving back to PECO. There is not a household economic benefit from shopping.” Id, p. 17, lines 4-7.

In PECO’s view, this is a stark admission that a PIP is not a good platform for CAP customer shopping. According to Dr. Peach, under a PIP the CAP customer will not seek a competitive price advantage. The customer will have a “psychic reward of improvement in sense of control.” PECO respectfully submits that a tiered program, in which the low-income customer sees at least some of the benefit/consequence of their shopping decision, is far more consistent with the Commission’s stated goal of having CAP customers join the marketplace.

D. If Needed, PECO’s Tiered Program Can Be Adjusted to Provide Additional Benefits

1. PECO’s Tiered Program is a Success

Three measures of success were discussed in this proceeding: (1) percentage of CAP bills paid; (2) low-income terminations, and (3) conformity to the PIP bill payment guidelines as a proxy for “affordability.”

For percentage of CAP bills paid, Ms. Feldhake testified that, using this metric, PECO’s program is as successful as PIP programs. PECO Statement No. 1, p. 30. She noted that this metric is “considered an overall measure of program success, and quoted the Tentative Order (p. 15) to that effect:

Program affordability can be measured, and operating expenses can be influenced directly by how successfully customers pay their energy bills once enrolled in the CAP program. A review of data submitted by EDCs and NGDCs to BCS . . . shows that, on average, CAP participants pay between 80% and 85% of their CAP budget bills.

She also testified that PECO’s program is a success using this metric:

For the three-year period 2009-2011, PECO's CAP participants paid 82.6% of their CAP budget bills. This puts PECO's payment levels directly within the average range of CAP programs statewide. By this measure of program affordability, PECO's program is consistent with other programs in the state. I think this is especially noteworthy because most of the other utilities in the state use some form of PIP. These data suggest that PECO's program attains affordability, and that it does it as well as PIP programs do.

Id.

Other witnesses gave little weight to this measure, but Ms. Feldhake gives it a great deal of weight:

For me, the bills paid metric is by far the most important metric to determine whether the program is performed as expected. There is a great deal of debate about the detail of how to best deliver benefits to low-income customers, but this overall metric allows one to evaluate PECO's entire suite of universal service programs – CAP, LIURP, MEAF, CARES – and its credit and collection practices with a single measure. The payment performance of PECO's low-income customers tells me that PECO's program is on-track and performs just as well or better than PIP programs in the state. Given that, I see no reason to go to the expense of implementing a PIP in PECO's service territory.

PECO Statement No. 1, p. 30.

For the metric of low-income terminations, Ms. Feldhake testified (PECO Statement No. 1, p. 34, lines 1-9), that PECO's program is best of class:

Second, an additional measure of the success of a portfolio of low-income programs is the percentage of its low-income customers whose service is terminated. Lower terminations indicate a program that is successfully delivering benefits. As shown in LF-2, PECO has the lowest percentage of low-income terminations of any utility in the state. PECO's program is thus superior to every PIP in the state when it comes to avoiding low-income terminations.

The only challenge made to this metric is whether PECO has shown sustainable success on this metric. TURN Statement No. 1R, p. 6, line 15. Ms. Feldhake provided oral rejoinder

demonstrating that PECO has had the lowest low-income termination rate in the Commonwealth for years. Transcript 67-70 and Exhibit LF-5.

The third measure of success discussed by the witnesses is conformity to the PIP bill payment guidelines as a proxy for “affordability.” Dr. Peach and Mr. Miller put a great deal of weight on this measure, almost to the exclusion of any other factor. *See, for example*, PECO Statement No. 1R, p. 3, lines 17-19: (“In my view, Dr. Peach gives inordinate weight to one element of the necessary cost-benefit analysis while minimizing or ignoring other important elements of that analysis.”); Transcript 217-226 (Dr. Peach testifying that there is no way, “in the real world,” for a tiered program to ever be superior to a PIP because affordability will always outweigh other factors.)

But that reliance is misplaced. The PIP bill payment guidelines are just that – guidelines for how large a bill should be rendered in a PIP. In fact, the term “affordability” does not even appear in the Commission’s policy statement. Transcript, pp. 228-29; PECO Cross-Examination Exhibit 3. Moreover, within the structure of the CAP Policy Statement, those guidelines specifically apply to a PIP program, but not to other programs. Transcript, pp. 229-30; PECO Cross-Examination Exhibit 3.

This is why Ms. Feldhake testified that Dr. Peach’s over-reliance on the PIP bill payment guidelines can result in a “false precision.”

I think the precision that he references is a false precision. The fiction behind a PIP is that we know precisely how large of a bill will constitute an affordable bill for each individual household in PECO’s service territory. For example, a family of four that makes \$23,000, the 2012 Federal Poverty Level Guidelines, earns just below 100% of the FPL. Under the Commission’s guidelines, a PIP structured around the highest (6%) energy burden for that poverty level should cause that family to pay utility bills of $\$23,000 * .06 = \1380 per year or \$115 per month. Certainly, a PIP can be structured to precisely deliver that family a bill of \$115 per month, regardless of their

usage or the shopping decisions made by that family. But I do not believe we can know with precision that a \$115 bill is actually the optimally affordable or correct bill for that family because various families of four who earn \$23,000 will actually be very different than one another. What if the family has more bills than the typical family of their size and income? Isn't there an argument that such a family can only truly afford a monthly bill of \$90? What if the family has less bills than the typical family of their size and income? Isn't there an argument that such a family can truly afford a monthly bill of \$130? To me, the underlying idea that we can know with precision how much will cause a given family's bills to be affordable is a false precision, and therefore the PIP's ability to precisely deliver those amounts is also false.

This is why I prefer, as I noted in my direct testimony, to focus on affordability measures that reflect the actual bill-paying behaviors of the customers, such as payment coverage of CAP bills rendered to the population. By that measure, PECO's program -- which has an 82% coverage rate -- has affordability equivalent to the various PIP programs operating in Pennsylvania, which have coverage rates of 80-85%.

PECO Statement No. 1R, pp. 5-6.

Even Dr. Peach confirmed, on cross-examination, that a PIP program could have as much as 250% variability in delivered benefits, depending upon which program parameters are set before doing the PIP calculation Transcript 203-208; PECO Cross-Examination Exhibit 2. The "precision" of "affordable" benefit delivery in a PIP thus should be viewed with caution. In fact, a PIP can deliver a wide variety of bills to identically situated customers, and can deliver exactly the same bill to customers who are very differently situated.

PECO respectfully submits that, while its tiered program may need improvement at some levels and by some metrics, overall it is a success when measured by bill payment and low-income terminations. If improvement is needed, that can be accomplished within the existing tier program. Wholesale change to a PIP is not needed.

2. Improvements Can Be Accomplished By Reallocation Within Tiers

If the Commission determines that improvements to PECO's CAP tier program are needed, those improvements can be made within the framework of a tiered program, either within the existing 7-tier program or by moving to a 12-tier program. Ms. Feldhake's testimony provides numerous examples of redeployment options that improve upon the metric of PIP bill payment guidelines. *See* PECO Statement No. 1, Tables 1-4, pp. 34-35, and Exhibit LF-3. To the extent that the Commission wishes PECO's program to conform more closely to the PIP bill payment guidelines, that can be accomplished using one of the options set forth in those tables.

Of course, PECO recognizes that a tiered program will not be able to precisely conform to the PIP bill payment guidelines. But PECO does not consider that to be a defect of the tiered program. As Ms. Feldhake noted, the tiered program is a success when measured on bill payment and terminations. It does so without precisely conforming to the PIP bill payment guidelines.

3. Usage Reduction Programs

Ms. Feldhake also testified that PECO's enhanced usage reduction programs should be given time to work (PECO Statement No. 1, pp. 36-37):

PECO has an excellent Low-Income Usage Reduction Program that can be further refined to help reduce that usage. More importantly, though, PECO is already committed to a new low-income conservation program that begins this year. As I noted previously, PECO is committed, under its Act 129 Energy Efficiency and Conservation Plan, to achieving a 50 MWH usage reduction in its low-income customers over the next three years. On an annual basis, that is a target reduction equal to approximately 1.4% of the CAP populations current annual usage. Incorporating all of PECO's low-income usage reduction programs for 2013, PECO

will spend \$15.1 million in 2013 on this effort. I recommend that we allow this effort time to develop before we spend additional millions in IT costs to implement a PIP.

However, there remain two areas that weatherization funding has not been able to resolve – de facto heating and structural issues. Each year PECO’s low-income weatherization programs find approximately 700 homes that are using electric space heaters because their primary furnace/heat source is not available. This is known as “de facto heating.” The problem is usually that the furnace is broken or that the customer no longer has access to the fuel source for that furnace – typically gas or oil – usually for non-payment of that bill. PECO’s weatherization program cannot solve that. In addition, each year PECO refers about 8,300 homes to the state government because they need such significant home improvements, usually of a structural nature. PECO’s low-income weatherization program rules do not allow it to spend funds addressing these structural housing defects.

E. “Manipulation that undermines the regulatory objective”

Dr. Gil Peach’s direct testimony, TURN Statement No. 1, p. 10, line 15 through page 11, line 6) contained a statement that the Commission “should be concerned that PECO’s CAP Rate discount program is susceptible to manipulation that undermines the regulatory objective of affordability. . . .” The statement in whole reads:

Q. Can you explain your other concern regarding PECO’s administration of its CAP Rate Program in light of the CAP affordability commitments PECO made in 2010?

A. Yes. In a 2010 Settlement in PECO’s last rate case, PECO and many of the parties agreed to proposed changes to PECO’s Universal Services Program that targeted 88% or 90% (depending on the applicable CAP tier) “CAP population affordability” for PECO CAP Rate bills. I understand that PECO has recently confirmed that, in operation, it has only sought to meet these affordability targets for usage, typically not to exceed 650 kWh per month for non-heating accounts, that is subject to the CAP Rate discount. In other words, PECO has not sought to provide CAP population affordability, to the extent of the CAP population’s usage in excess of the discounted portion of their bills. The Commission should be concerned that PECO’s CAP Rate discount program is susceptible to manipulation that undermines the regulatory objective of affordability for low income customers. A PIP program design, by contrast, is not susceptible to such manipulation.

Because of the potentially inflammatory and prejudicial nature of this statement, PECO presented extensive rebuttal testimony (PECO Statement No. 2R, Rebuttal Testimony of Scott A. Neumann) and conducted extensive cross-examination on this subject. Mr. Neumann's rebuttal testimony establishes that:

- The issue raised by Dr. Peach is primarily a question of how to mathematically implement the 2010 Settlement into PECO's CAP rate tier structure. PECO Statement No. 2R, p. 3.

- The approach that PECO used to implement the 2010 Settlement results mathematically in precisely the outcome set forth in the settlement and PECO's compliance filing. PECO Statement No. 2R, p. 4-7.

- The approach that Dr. Peach prefers would have mathematically resulted in PECO giving the first 650 kWh of service not only for free, but for a credit. *Id.*, pp. 6-7. On cross-examination, even Dr. Peach admitted that this was an "absurd" result. Transcript, p. 271. Dr. Peach's only answer to how to calculate differently was to not apply kWh usage limits to the discount, *id.*, even though PECO's CAP program has clearly had usage limits since its inception.

- PECO's cost recovery was and is based on its approach. *Id.*, p. 7.

- Dr. Peach's approach would have cost \$27 million per year more than the amount that PECO is recovering in rates. *Id.*, p. 8.

- PECO used this same approach in 18 subsequent rate filings before the Commission, each of which transparently set forth the rate methodology used by PECO. *Id.*, pp. 8-10.

- PECO's approach has been clearly stated in its tariff at all relevant times. *Id.*, p. 10.

- The 2010 Settlement is based upon PECO's DSP Settlement, and this same methodology was used by PECO in its rate filings between the DSP Settlement and the 2010 Settlement. *Id.*, p. 11.

As a consequence of the above, Mr. Neumann testified that:

I disagree completely with the implication that PECO has engaged in any manipulation. PECO's compliance filing for the 2010 Settlement was explicit as to how it implemented the universal service provisions of that settlement, including on the specific issue Dr. Peach claims that "manipulation" occurred. PECO has kept its manner of implementation in open form in tariff pages available on its website since that time, and has made eighteen rate filings the Commission in which its manner of applying the 2010 Settlement is openly stated. Its rate recovery and proofs of revenues reflect the approach I have described above. There has been no manipulation.

Id., pp. 10-11.

On cross-examination, Dr. Peach testified that:

- Before forming his opinion on manipulation, he spoke to attorneys for TURN et al. Transcript, p. 253.

- Those conversations were not material to his opinion. *Id.*, p. 255.
- His opinion is based upon his view that someone at the negotiation table might feel manipulated. *Id.*, p.256. But he never spoke to anyone who had been in the room during negotiations. *Id.*, p. 257. (PECO notes that the TURN attorneys were in fact in those negotiations, so Dr. Peach's testimony contradicts itself on this point.)

- He doesn't recall what he reviewed in forming material parts of his opinion. *Id.*, p. 260.

- He may have spoken to someone in the Governor’s office, or the Commission’s Bureau of Consumer Services. Or maybe it was just some unnamed person over drinks at a conference. Or maybe it really was the attorneys. He just can’t recall. *Id.*, p. 266.

- His analysis is based upon his view that, under the 2010 Settlement, PECO’s CAP rate discount would have no usage limits.

PECO notes that the 2010 Settlement, which was introduced as PECO Cross-Examination Exhibit No. 6, clearly states that, except for changes to the affordability targets, “In all other respects, unless otherwise altered by other provisions of this settlement, PECO shall calculate its CAP Rate discount using the methodology described in its electric DSP Settlement.” The DSP Settlement, which was introduced as PECO Cross-Examination Exhibit 7, states (paragraph 69) that: “Additionally, the 650 kWh per month individual customer maximum usage to which discounts will be applied will remain in place [with exceptions not relevant here.]” Dr. Peach’s baseline assumption for his “manipulation” testimony is thus demonstrably untrue.

PECO respectfully suggests that the Commission should give no weight to Dr. Peach’s testimony on this issue.

F. Aggregation

CAUSE-PA witness Mitchell Miller testified in favor of an “aggregation” approach for CAP shopping. *See* CAUSE-PA Statement No. 1, Direct Testimony of Mitchell Miller, p. 6, line 3 to page 12, line 21. Under this approach, PECO would procure generation on behalf of the body of CAP customers.

Ms. Feldhake's rebuttal testimony, PECO Statement No. 1R, pp. 9-10, provides PECO's response to this proposal:

The question of whether to have CAP customer aggregation is more appropriate for discussion at a later point in the process. PECO is not required to present its CAP shopping proposal to the Commission until May 1, 2013, and customer aggregation is a detail that relates to the CAP shopping proposal. PECO appreciates knowing the parties' views on aggregation as it develops its shopping proposal, but takes no position on it at this time.

A key question before the Commission at this time is whether PECO will continue with its CAP tier program or move to a PIP. It is my understanding and belief that an aggregation problem largely works independently of the underlying CAP program design – tiers or PIP – and that an aggregation program can be implemented under either a CAP tier or PIP regime. The Commission can thus decide on April 1, 2013 whether PECO should continue with a CAP tier or a PIP and then later address the question of whether the CAP shopping program will also include an aggregation model, after PECO provides its CAP shopping proposal on May 1, 2013. Thus, I conclude that it is premature to make any conclusion with respect to Mr. Miller's aggregation proposal at this time.

PECO notes that Ronald M. Cerniglia presented aggregation testimony on behalf of Direct Energy Services, LLC. Direct Energy Statement No. 1R. While Mr. Cerniglia was generally supportive of aggregation, *id.* p. 8, his support for aggregation differed from Mr. Mitchell's proposal in one significant way. Mr. Cerniglia states (p. 8, lines 21-22) that: "... any requirement that caps the price for generation perpetually is unacceptable." For his part, Mr. Miller states (p. 11, lines 11-12) that: "CAP customers must be assured that the competitive price charged to them is always at or below the price they would pay if they remain on default service." These two statements appear to be directly contrary on the question of whether an aggregation proposal should, or should not, include a cap on the generation price.

PECO takes no position at this time on which of these approaches is correct. If PECO proposes an aggregation option on May 1, 2013, the issue of whether to have a price cap, and in

what form, will be addressed in its proposal at that time. However, for purposes of this phase of the proceeding, this disagreement is important in deciding whether to order a PIP or a tiered program because the decision of whether to use a PIP or a tier may pre-judge the answer to the aggregation/price cap question. Mr. Miller has suggested that aggregation and a PIP will work well together, in large part *because* his proposed aggregation program contains a generation price cap. As he notes, it is the existence of the generation price cap in his aggregation proposal that protects against the pass-through of bad shopping decisions to other customers. He states (p. 10, lines 20-23), “. . . other ratepayers would benefit from this structure because they would not be subject to paying the costs of the CAP program that are defined by the individual shopping choices of CAP customers, but rather through a competitive process designed to ensure sufficient cost protection and certainty.” Yet if that protection is not in place, then aggregation with a PIP would expose the other customers to the effects of bad shopping decisions, which are a known and admitted risk of a PIP.

Thus, if on April 4, 2013 the Commission directs PECO to proceed with a PIP, that prejudices the question of whether to have aggregation with a generation price cap. PECO respectfully submits that the Commission should allow latitude for the aggregation/price cap debate to develop once a specific shopping proposal is made, rather than pre-judging that issue by ordering a PIP now.

III. Cost Recovery Through the USFC

PECO presented testimony from Ms. Feldhake (PECO Statement No. 1, pp. 15-16) and Mr. Neumann (PECO Statement No. 2, pp. 2-7), that PECO recovers its costs for its Universal

Services programs through its Universal Services Fund Charge (“USFC”). The mechanism has a 27% offset for CAP shortfall recovery, with other costs collected on a dollar-for-dollar basis.

While no other witness provided testimony directly on this issue, PECO does note that Dr. Peach’s direct testimony, TURN Statement No. 1, p. 12, lines 7-18, describes PECO’s IT transition costs in language that strongly suggests that he recognizes that it would be cost recoverable:

In general, as a regulated entity providing essential services under a state granted franchise, PECO will need to do complete and thorough training rather than casual training. This means that changes to utility IT systems must be accomplished carefully and conservatively, following step-by-step protocols with continuous documentation and testing. This may also involve, for example, running the current system and the new system in parallel for some months to insure full operational security.

However, whatever the total of the one-time transition costs, the system will operate optimally – at the least cost for fully implementing the affordability guidelines of the Pennsylvania Code – for all years thereafter. Since the transition cost is a one-time cost for years of optimal program performance it would be reasonable to see it as a public purpose technical improvement with a return over a series of years.

Similarly, Mr. Colton’s direct and rebuttal testimony discusses the IT costs in terms that suggest rate recoverability of those costs. In his direct testimony, OCA Statement No. 1, p. 20, lines 14-16, he notes that: “Even if one were to amortize those start-up costs over some 14 reasonable period of years –I traditionally have recommended a five-year amortization for start-up costs—the IT transition costs, if accurate, are substantial.” In his rebuttal testimony, OCA Statement No. 1R, p. 12, he notes his expectation that similar costs would have been recovered in rates by Commonwealth Edison.

PECO therefore requests that, in making its decision in this matter, the Commission be aware that no party has contested that costs associated with any change will be recovered through PECO's USFC.

IV. Other Issues Listed in the Tentative Order or Raised By Witnesses

A. Customer Confusion

The Tentative Order (pp. 15-16) also requests input as to whether PECO's current rate tier program results in customer confusion, as evidenced by customer complaints. Ms. Feldhake provided testimony (PECO Statement No. 1, pp. 37-39) that (1) some of the customer complaints involve voluntary payment arrangements entered into by PECO to assist the customer that PECO is not required to provide, and that PECO should not be challenged because it is offering customers more payment flexibility than the law requires it to offer. (2) That to the extent that balances above \$1,000 were causing confusion, PECO eliminated that confusion when it wrote off those arrearages in 2011; and (3) PECO's CAP population during the period of the BCS study ranged between 130,000 and 140,000 CAP participants, depending upon the month. 493 complaints filed were filed with the Commission. If the Commission is correct that program dissatisfaction can be determined by the number of complaints, these numbers demonstrate that 99.6% of PECO's CAP population is satisfied with the CAP program.

PECO is not aware of any other testimony on this issue. It therefore requests that the Commission accept Ms. Feldhake's testimony on these issues.

B. CAP A

The Tentative Order (p. 16) notes that PECO has 88 customers in its CAP Rate A, and invites comments on “how accurately PECO is assigning customers to the proper CAP rate schedule.” Ms. Feldhake provided testimony (PECO Statement No. 1, pp. 39-40) that the primary difficulty in moving customers from CAP B to CAP A has been “in confirming whether a given payment-troubled customer meets one of the other “extenuating circumstances” that are prerequisite to CAP A eligibility.” Ms. Feldhake provided the example that, in the fourth quarter of 2008, PECO implemented a process to attempt to increase CAP Rate A participation via a CAP Rate B outreach effort. The plan consisted of identifying and contacting CAP B customers in the termination pool to determine if they were CAP A eligible prior to termination. If the customer was deemed CAP Rate A eligible, the account was taken out of termination status, placed on CAP Rate A, and all arrearages were placed on an affordable payment agreement *(regardless of the customer’s agreement eligibility)*. This effort resulted in very few enrollments in CAP A, principally because of difficulties contacting the customers. *(Approximately 70% of phone numbers that had been provided by CAP B customers were incorrect and, even for those who had given correct phone numbers, contact frequently still did not result in confirmation of an extenuating circumstance.)*

Ms. Feldhake also testified that the Commission requires PECO to issue a minimum bill of \$12 per month, regardless of CAP tier. PECO’s analysis is that, for its CAP B population, a \$12 minimum monthly bill would result in unaffordable bills to 57% of the CAP B population at current rates, and would have resulted in a 74% unaffordability level in 2009, and a 57% unaffordability level in 2012. Thus, even if the entire CAP B population was moved to CAP A, those customers would continue to receive a \$12 monthly bill and the majority of those

customers would still receive service that would be deemed unaffordable under the Commission's guidelines – because the Commission's minimum bill requirement requires that to be true.

Although numerous witnesses testified that they believed that the CAP A population should be larger, there were essentially no concrete proposals to overcome the question of how to confirm an extenuating circumstance – or the fact that even if an extenuating circumstance is found to exist, Commission regulations will still cause an unaffordable bill to be issued.

This matter should not be taken lightly. Mr. Neumann testified (Transcript 139-142 and Exhibit SN-8) that moving the entire CAP B population to CAP A would have an annual cost of \$7 million. PECO therefore recommends that it continue to require confirmation of extenuating circumstances prior to moving a customer to CAP A.

C. One-Year Arrearage Forgiveness

The Tentative Order (pp. 11, 17) also requests comments on whether PECO should retain its one-year arrearage forgiveness policy. Ms. Feldhake provided testimony (p. 41) with the background supporting this practice. PECO is not aware of any witness that has challenged this practice, and therefore recommends that it continue.

D. Automatic Enrollment and LIHEAP

The Tentative Order (pp. 18-19) also requested comments as to whether PECO should continue its practice of automatically enrolling in CAP those customers who receive a LIHEAP grant. Although several witnesses suggested that PECO should move to an “opt-in” program

based upon the Duquesne program, Ms. Feldhake testified (PECO Statement No. 1, pp. 42-45) that PECO should be allowed to continue with its current program:

When a PECO non-CAP customer obtains a LIHEAP grant, PECO automatically enrolls that customer in the highest tier of its CAP program. PECO engages in this automatic enrollment because, once the customer receives a LIHEAP grant, PECO knows two facts about the customer: (1) the customer has demonstrated to a government agency's satisfaction that the customer is income-eligible for the LIHEAP grant, and (2) the customer is sufficiently in need of funds to pay their energy bill that they sought the LIHEAP grant. This program is consistent with the Commission's CAP Policy Statement, 52 Pa. Code § 69.265(6), which states that income verification and eligibility may be determined via "certification through a government agency," and has previously been approved by the Commission. In the last LIHEAP season, PECO automatically enrolled 2,435 customers in its CAP program through LIHEAP auto-enrollment.

The Tentative Order asks for comments on two aspects of this program: (1) whether additional consumer education should be conducted so that auto enrollees will know their CAP obligations, and (2) whether a "positive customer response" should be required prior to enrollment.

As to additional consumer education, the Tentative Order inquires whether additional education is required so that the customer knows that the customer must make their CAP payment each month; the consequences of default from CAP; the fact that pre-program arrearage forgiveness may only be granted once in a lifetime, and the possibility that failing to honor the CAP payment plan provisions can result in removal from CAP and/or termination of service.

I note that, because PECO's program is a CAP Rate, customers are not "removed from CAP" for failure to make payments. The consequence of failing to pay one's CAP bill is the same as before the customer is on the CAP rate – termination of service. PECO addresses this and almost all of the other issues about which the Commission inquires in a letter sent to each auto-enrolled customer that states:

As a CAP Rate customer you **MUST**:

- Pay your CAP Rate bills on time
- Be on the budget
- Take part in the Low Income Usage Reduction Program (LIURP)

- Report any change in your household income right away

Now that you are enrolled in our CAP program, your previous balance at the time of enrollment was set aside. Each month that you pay your current discounted CAP Rate charges in full and on-time, 1/12th of your set aside balance will be forgiven.

If you pay your bill late, a late fee will be charged. If you fall behind on your bill you may receive a payment agreement. If you do not pay your bill, your service may be shut off. To pay your bill by telephone, please call **1-877-432-9384**.

If you do not want to receive a discount contact us at **1-800-774-7040**.

This letter thus informs the customer that the customer must make their CAP payment each month; the consequences of failing to pay their discounted CAP bill; the fact that they are being granted pre-program arrearage, and the possibility that failing to honor the CAP payment plan provisions can result in termination of service (but not removal from CAP, because PECO's program does not remove customers from CAP for non-payment).

Of the issues raised by the Tentative Order, then, the only issue not currently addressed in PECO's letter to the customer is "the fact that pre-program arrearage forgiveness may only be granted once in a lifetime." I do not believe that this is . . . ⁴ a critical piece of information to provide to customers as part of the auto-enrollment process, and providing it could actually be counter-productive. Simply, if providing information on pre-program arrearages is expected to induce any change in customer behavior, the expected change would be for a customer to delay CAP enrollment until some future time so that it could build up a large pre-program arrearage before entering CAP in the misguided belief that they would be getting a greater benefit by doing so. The behavior that the Commission and PECO should wish to induce is the exact opposite -- to have the income eligible person enrolled in CAP sooner so that they can pay their bill and not develop a pre-program arrearage that must later be forgiven and paid for by other customers. PECO therefore submits that its current communication properly addresses the consumer education issues about which the Tentative Order inquires.

The Commission's second issue is whether a "positive customer response" should be required prior to automatic enrollment. As noted above, PECO's auto-enrollment letter already provides the customer with a phone number to call if the customer does not wish to be in the CAP program and receive a discount. The suggested change, in effect, would change the program from an "opt out" to an "opt in" program. This would mean that the program would not be an automatic enrollment program at all. Instead, the list of LIHEAP recipients would simply receive a letter informing them about the availability of CAP.

In PECO's experience, the response rate to these letters would be quite low. The expected consequence of this policy change would therefore be that several

⁴ An inadvertent "not" has been removed from the original sentence.

thousand customers who are known to be income-eligible for CAP and who exhibited need for funds by applying to LIHEAP would not be enrolled in and receive the benefits of CAP. PECO's sees this as an adverse outcome. This adverse outcome would need to be weighed against the possibility, as the Commission notes, that some of these customers actually might not wish to be enrolled in CAP, and that those customers would overlook their existing "opt out" potential and thus would be inadvertently trapped in a discount program they do not desire. I am not aware of any data suggesting that this latter scenario actually exists. In the absence of such data, I see no reason to change the PECO practice.

Ms. Feldhake also noted, in her rebuttal testimony, PECO Statement No. 1R, pp. 12) that one of the acknowledged strengths of the PECO CAP program is its ability to enroll a high percentage of eligible customers. She recommends against disrupting the procedures, such as LIHEAP automatic enrollment, that have contributed to that success.

E. Requiring a Social Security Number and Notarized Statement

PECO's position on these issues evolved during the course of this proceeding. Its current position, and the rationale for that position, is set forth in Ms. Feldhake's Rebuttal Testimony (PECO Statement No. 1R, pp. 13-15). That position is set forth in whole below:

Let me first say that, in its Comments in this proceeding, PECO committed to working with PCADV to develop a method for addressing U-Visa and V-Visa issues to assist victims of domestic violence. That commitment stands, and PECO is ready to work with PCADV to develop methods for assisting U-Visa, V-Visa and other at-risk victims of domestic violence to obtain CAP benefits.

With that said, PECO's CAP program is an \$80 million per year program, and PECO must have the ability to track those to whom it is giving those benefits to make sure that fraud and repeat benefits are not being given. In that respect, I refer to the testimony of Maripat Pileggi, CAUSE-PA Statement No. 2, p. 6, lines 20-23. Ms. Pileggi suggests that, because PECO does not have data to demonstrate that fraud and duplicative benefits exist, it should not be allowed to impose the SSN regime to allow it collect that data and use it as a control mechanism for fraud. She refers to this as "circularity" of PECO's logic. I suggest the opposite. Ms. Pileggi and the other witnesses on this issue have taken the position that, unless and until PECO can demonstrate the existence or risk of fraud or duplicative benefits in this \$80 million per year program, it should not be allowed to gather information to address or control

fraud. But without the ability to track the data, how is PECO to proceed with fraud identification or control? There is certainly a circularity in that logic.

I believe it simply comes to this – for an \$80 million a year benefits program, is the best practice to impose fraud tracking and control mechanisms at the outset, or to wait until evidence of fraud emerges? To me, the answer is clear – PECO should take steps now to allow it to track and control fraud. I note that, in their testimony, the witnesses object to the approach to fraud control that PECO proposes, but none of the witnesses provide an alternative method for pursuing those goals.

The various witnesses provide two reasons that PECO should not be allowed to collect SSNs. First, they state that provision of SSNs creates risk of identity theft. I simply note that, in discovery, PECO provided the other parties' with copies of the following ten corporate policies that implement PECO and Exelon's comprehensive procedures to avoid and mitigate the effects of identity theft.

LE-AC-401 Corporate Procedure Records Retention and Disposition

LE-AC-4 Corporate Policy Records Retention and Disposition

CS-ED-P304 EED Identity Theft Prevention Program

LE-AC-302 Disposing of Consumer Information Corporate Procedure

IT-DO-552-1 Data-At-Rest Security

LE-AC-303 Personal Information Security Incident Response Procedure

LE-AC-30 Corporate Program Identity Theft Prevention

FINAL Vendor Due Diligence Questionnaire

FINAL Personally Identifiable Information Addendum

Exelon's Privacy Policy posted online at
<https://www.peco.com/Pages/PrivacyPolicy.aspx>

Despite having these procedures well before filing their testimony, none of the witnesses provide an examination of whether these procedures mitigate the issues they raise.

Second, the witnesses argue that providing SSNs will effectively block certain at-risk populations, such as victims of domestic violence, from CAP benefits.

After reviewing the various concerns raised and the options available to PECO, I am prepared to modify PECO's SSN program for CAP. Instead of requiring SSNs from all household members, I propose that PECO will follow the model that DPW uses for LIHEAP – that is, request SSNs on the CAP application, but allow customers the option of refusing to provide SSNs without losing their CAP eligibility. PECO will

work with PCADV to ensure that the opt-out does not prejudice the rights or safety of victims of domestic violence.

I believe that this approach provides the proper balance of allowing PECO to collect sufficient information to track and control fraud and duplication in its \$80 million per year CAP program without creating barriers to obtaining benefits from that program.

I reach a similar conclusion for notarized statements of no income. PECO will modify its program to track the DPW model – that is, customers who claim “no income” will be required to submit a detailed explanation of how the household pays its bills with no income. That statement will be submitted with a statement that the customer avers the statement to be true, on penalty of law for false statements. The statements will be accepted on a non-notarized basis.

F. CAP Credits

The Tentative Order (pp. 23-24) requests comments on whether PECO should continue to apply the maximum bill cost containment measure on a system-wide basis. Ms. Feldhake provided testimony in support of continuing this practice. PECO Statement No. 1, pp. 52-54. Dr. Peach and Mr. Colton similarly supported this practice; PECO is not aware of any witness who opposed it. PECO therefore recommends and requests continuation of this approach.

G. Low-Income Usage Reduction Program (“LIURP”)

The Tentative Order (pp. 25-26) also seeks comments regarding PECO’s LIURP program. Ms. Feldhake testified (PECO Statement No. 1, pp. 54-57) that PECO’s LIURP is evaluated annually by an independent third-party evaluator:

The most recent evaluation, covering the 2010 project year, was submitted to the Commission in April 2012. With respect to targeting high users and properly training, the evaluation is highly complimentary of PECO’s program, stating that:

PECO’s LIURP cost-effectively delivered energy efficiency services and energy education to over nine thousand customers in 2010, many of whom had vulnerable household members. They have kept program

administration costs low, at just seven percent of program expenditures. Reductions in energy usage were larger for electric baseload jobs than in previous years, but smaller for electric heat and gas heat jobs than in previous years.

However, reductions in energy usage for customers receiving electric heat and gas heat services were lower than in previous years. For customers receiving electric heating or gas heating services, the reduction in savings is probably due to lower pre-treatment energy usage. PECO has been providing LIURP services for many years, and has furnished LIURP to many of its highest usage customers.

We have the following recommendations to continue to deliver effective services and potentially improve savings.

Targeting: It is a challenge to continue to find high usage customers to treat in the program. Lower energy savings for 2010 electric heat and gas heat jobs as compared with 2009 electric heat and gas heat jobs may be related to lower pre-treatment usage for these households. PECO should continue to make targeting the highest usage households a priority for the program.

Education: The high savings for households that only received CFLs, as well as previous customer survey research conducted as part of PECO's USF evaluation, indicate that the energy education conducted as part of LIURP is successful. We believe this is due to the extensive education process that occurs during the audit and the reinforcement that occurs through letters and phone calls. PECO should continue the emphasis on education.

There is nothing in this evaluation that suggests PECO is having difficulty targeting or reaching its high usage customers. To the contrary, the evaluation suggests that PECO has reached its eligible high usage customers and is now re-addressing that same population and working with lower levels of usage.

The confusion may be with the limits of LIURP as a program. Many customers refuse LIURP audits or treatment even though they have high use. In addition, many high use housing conditions are not eligible to be treated via LIURP. For example, a house with structural damage such as a missing roof, which will continue to bleed heat into the neighborhood regardless of what is done, will not be eligible for LIURP treatments. Similarly, a Philadelphia house whose PGW service has been terminated, or which has an inoperative gas heater, will not be eligible for PECO LIURP treatment. It is therefore possible for a customer to have high usage and a high balance, to have been evaluated for LIURP and even referred to it for an audit, and for the customer to then not be eligible for LIURP

treatment either because the customer will not accept the treatment or the difficulties at the house are not LIURP-eligible. None of these factors suggest that PECO's LIURP program is deficient.

PECO notes that several other witnesses, including Mr. Colton and Mr. Miller, also suggested that the issue may be with the rules prohibiting use of LIURP funds to resolve *de facto* heating. Ms. Feldhake responded to that testimony in her rebuttal testimony (PECO Statement No. 1R, pp. 16-20):

Q. To which testimony regarding LIURP are you responding?

A. At pages 15-19 of his testimony, Mr. Miller discussed LIURP and made three recommendations: (1) that evaluation be done into the housing conditions and heating situations of CAP customers at or below 25% of the federal poverty level to assess the need for services beyond LIURP; (2) that PECO increase its LIURP budget sufficiently to provide a minimum increase of serving 15% more LIURP households incrementally, which Mr. Miller estimates would require an additional \$2.5 million of LIURP funding; and (3) that PECO undertake more coordinated activities with its local weatherization providers, municipal agencies and NGDC's where appropriate. Dr. Colton recommended (pp. 50-52) that PECO should target LIURP to the 16,000 CAP Rate customers who participated in PECO's In-Program Arrearage Forgiveness Program ("IPAF").

Q. What comments do you have on this LIURP testimony?

A. All of these recommendations are based on the assumption that there is a population of CAP customers who are regular very high users of electric service for whom LIURP treatment has either not been available in the past, or has not been effective. While I generally agree with that analysis, I note that, as I discussed in my direct testimony, the recurrent very high users tend to be customers that have rejected LIURP treatment or who are not eligible for LIURP treatment because their high usage is caused by *de facto* heating or structural issues that fall outside of the scope of LIURP measures.

I therefore disagree with the view that the existing body of high users is the result of inappropriate targeting of PECO's LIURP funds. As I stated in my Direct Testimony, PECO's LIURP program is independently evaluated each year, and the evaluation has concluded that PECO's targeting of its LIURP funds is appropriate. The issue is simply that some situations do not respond to LIURP.

For example, Dr. Colton recommends that PECO should focus LIURP funds on the customers who participated in its IPAF program. That is a good idea,

and that is why PECO did exactly that in 2011-12. The results provide insight into the difficulty of using LIURP results to address these issues for a significant proportion of the high usage CAP population. PECO attempted to give LIURP treatment to 11,020 IPAF accounts that were still active as of the 4th quarter of 2012, with the following results:

LIURP Audit Completed	2,731
LIURP Audit Scheduled	18
Customer Moved/Moving	174
Landlord Refused LIURP	292
No Customer Response	1,877
Customer Refused LIURP	245
Not Eligible for LIURP	3,384
On Current LIURP List	2,299

I have a similar reaction to Mr. Miller's recommendations that PECO investigate causes of high usage in its poorest customers and that PECO coordinate with third parties, including NGDC's, to see if there is a means to address high usage and bills in the CAP population. Those are excellent ideas and PECO has been pursuing them for years, and will continue to pursue them. But some of the issues, especially *de facto* heating, have been intransigent to solve, and as a result there are certain customers whose gas or oil heat has been terminated, often for non-payment, who have high usage due to electric space heaters. The solution to this problem – payment of the customers' natural gas bills and reconnection of their gas service – is beyond the ability of LIURP to address. Additionally, LIURP funds earmarked for electric high usage cannot be used to repair or replace a gas heater or gas furnace even when that is the cause of the high *de facto* electric heating use. Nonetheless, PECO will continue to pursue the avenues recommended by Mr. Miller.

I should note that, in PECO's current CAP rate tier program with usage limits, the customers who are shutoff for nonpayment by their NGDC and therefore revert to *de facto* electric heating are held responsible for that usage once their monthly usage exceeds the specified kWh limit. In a PIP, the customer in such a situation would have no financial or conservation responsibility for the increased usage. This means that, for these *de facto* heating customers,

implementing a PIP simply shifts the uncollectible problem for this group of customers from PGW to become a CAP shortfall issue at PECO because having the PIP in place means that, when PGW shuts off natural gas service for non-payment, PECO must provide all the electric service the customer uses for replacement space electric heating without increasing their bill beyond the designated PIP amount. In my opinion, it is an inappropriate financial and credit/collections policy to take such a step to shift the non-payment burden from one regulated utility to another.

As to the proposed increase to LIURP funding, Mr. Miller notes that PECO will spend \$7,850,000 on LIURP in 2013 and that he is concerned that PECO's DSP/LEEP funding of \$2.5 million expires after 2013. He also effectively requests a 15% increase in LIURP funding, to a nominal total of \$11,902,500 for 2013. I note that, in my direct testimony, I demonstrated that with the advent of Act 129 funding in 2013 PECO will actually spend \$15.1 million on low-income weatherization and conservation in 2013. PECO's total spend thus already will exceed the requested level by approximately 25%.

I also note that incremental LIURP funding is collected dollar-for-dollar through the USFC and charged to other residential customers. In the OCA's direct testimony, Dr. Colton did not recommend an increase in LIURP funding. Absent support for increased LIURP funding from the OCA, I do not believe that the Commission should order PECO to expend additional funds on this program.

However, it would be helpful if the Commission would grant PECO a waiver to spend LIURP funds of matters, such as de facto heating and some structural issues, that normally fall outside of the parameters of LIURP spending. I have no specific spending measure in mind, but if the results of the analysis recommended by Mr. Miller suggest that the issue can only be addressed using measures that are outside of LIURP's traditional bounds, it would be helpful to have latitude to use LIURP dollars to address those issues.

This remains PECO's recommendation. Even though LIURP spend would be recoverable dollar-for-dollar through the USFC, PECO does not believe that it should simply "spend more" on LIURP. Instead, all witnesses seem aligned that the issue is that LIURP dollars currently cannot be spent to resolve de facto heating and structural issues. PECO therefore recommends that, rather than increasing its LIURP spend, the Commission allow PECO to spend a limited portion – up to 10% of its LIURP budget for 2013-2015 – to address de facto heating and

structural issues. If that program is successful, then in PECO's next Three-Year program an expansion of that effort could be considered.

H. Organizational Structure

The Tentative Order (p. 30) also requests comments regarding staffing changes that might be needed if the Commission orders changes to PECO's universal service programs. Ms. Feldhake testified (PECO Statement No. 1, p. 57) that that the Commission directed to "reevaluate [its current] level of support to consider any further training necessary for the program changes ultimately directed through a final order and employ sufficient staff to operate is programs efficiently. Accordingly, PECO is directed to address this issue further in its comments to this order." Ms. Feldhake committed to doing so after receipt of a final order.

The only other testimony related to staffing is Dr. Peach's suggestion, TURN Statement No. 1, pp. 12-13, that PECO should go from its existing staff of three CARES workers to a staff of 10 CARES workers. This recommendation is based upon Dr. Peach's analysis in 2003. He does not provide any basis for a conclusion that, in the decade since he made that recommendation, PECO's CARES program has been inadequate. PECO recommends against accepting this unsupported statement.

I. Asset Test

Ms. Feldhake's testimony proposes that, in limited circumstances, PECO be allowed to deny CAP eligibility on the basis of assets. She stated (PECO Statement No. 1, p. 58) that:

PECO has recently observed CAP applications from customers who own very substantial assets – sometimes in the hundreds of thousands of dollars – but have recently experienced decreased income and are therefore income-eligible for CAP. In my opinion, CAP was not designed or intended to provide benefits to customers who

have large amounts of assets. I therefore believe that, when PECO becomes aware of such situations, it should be allowed to deny the CAP application. If the customer is dissatisfied with that determination, it can of course complain to the Commission.

This would not be a screening tool that is regularly used for CAP applicants. Nor do I expect that it would be often used. However, PECO has had customers that own a \$900,000 homes seeks CAP. In those situations, I would like to be able to deny that application on the basis that the customer should be taking steps to address their low-income situation other than getting reduced price electricity from PECO, paid for by PECO's other customers.

There was a significant outcry from other witnesses, primarily claiming that this test is unworkable because it is not well-defined, and dangerous because it could be used to inappropriately deny benefits.

PECO agrees that its proposed test is not well-defined. That is purposeful – PECO wishes to be able to review and respond to unique situations. But that does not make the program dangerous. Any customer who is denied access to CAP based on this test can file a complaint with the PUC and make the case that they should be placed on CAP. The customers' rights are thus protected.

PECO simply does not see the danger in allowing it the latitude to conclude that a high asset customer – the example given in testimony is a family with a \$900,000 home applying for CAP – is not eligible for CAP. That determination will be reviewable by the Commission. Far more dangerous, in PECO's view, is to allow customers with such significant assets to get a discount on their utility service that is paid for by other customers. PECO continues to request the right to use an asset test in limited circumstances. If PECO abuses such a test, the Commission can later note that abuse and withdraw PECO's ability to use the test.

J. Increasing CAP Eligibility

In his direct testimony, Dr. Peach advocated (pp. 20-22) increasing CAP eligibility from 150% of the FPF to 300% of the FPL. In her rebuttal testimony (PECO Statement No. 1R, p. 15) Ms. Feldhake noted that this proposal would nominally double the size of the CAP population and stated that: "Dr. Peach did not provide any information on the cost or affordability impacts of such a suggestion, and I therefore cannot support it." That remains PECO's position.

V. Conclusion

For the reasons set forth above, PECO requests that the Commission direct PECO to continue to use a tier program to deliver CAP benefits to its customers. If the Commission deems that PECO's CAP program requires redeployment of funds or the spend of additional funds, PECO requests that the Commission direct it to work within its tiered program to accomplish such change. With respect to the other items raised in the Tentative Order and addressed in this brief, PECO requests that the Commission resolve each such item as recommended by PECO in the section of this brief relating to that issue.

Respectfully submitted,



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