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March 25, 2013

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
400 North Street, 2nd Floor, North
P.O. Box 3265
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RE:

Petition of PECO Energy Company for Approval of its Default Service Program II, Docket No. P-2012-2283641

Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company for Approval of Their Default Service Programs, Docket Nos. P-2011-2273650, P-2011-2273668, P-2011-2273669, P-2011-2273670

Petition of PPL Electric Utilities Corporation for Approval of a Default Service Program and Procurement Plan, Docket No. P-2012-2302074

Petition of Duquesne Light Company For Approval of a Default Service Program And Procurement Plan for the Period June 1, 2013 through May 31, 2015, Docket No. P-2012-2301664

Dear Secretary Chiavetta:

By this letter, the Retail Energy Supply Association provides its comments in response to the above-captioned Tentative Order. Copies of these comments have been provided in accordance with the attached Certificate of Service.

Sincerely,

A handwritten signature in cursive script that reads "Deanne M. O'Dell".

Deanne M. O'Dell

DMO/jls

Enclosure

cc: Certificate of Service (w/enc)
Office of Special Assistants (w/enc)

CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing have been served upon the following persons, in the manner indicated, in accordance with the requirements of § 1.54 (relating to service by a participant).

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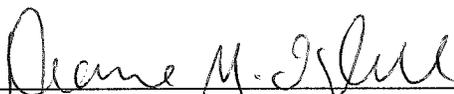
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Deanne O'Dell, Esquire

Date: March 25, 2013

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of PECO Energy Company for Approval of its Default Service Program II	:	Docket Nos.	P-2012-2283641
	:		
	:		
Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company for Approval of Their Default Service Programs	:		P-2011-2273650 P-2011-2273668 P-2011-2273669 P-2011-2273670
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	:		
	:		
Petition of Duquesne Light Company For Approval of a Default Service Program And Procurement Plan for the Period June 1, 2013 through May 31, 2015	:		P-2012-2301664

**THE RETAIL ENERGY SUPPLY ASSOCIATION'S
COMMENTS TO TENTATIVE ORDER ON RECONSIDERATION
DATED MARCH 14, 2013**

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I. INTRODUCTION

In its Tentative Order on Reconsideration (“Tentative Order”) entered on March 14, 2013, the Commission proposes to “immediately postpone” implementation of the Retail Opt-In (“ROI”) programs of Metropolitan Edison Company (“Met-Ed”), Pennsylvania Electric Company (“Penelec”), Pennsylvania Power Company (“Penn Power”) and West Penn Power Company (“West Penn”)(collectively, “FirstEnergy”); PECO Energy Company (“PECO”); PPL Electric Utilities Corporation (“PPL”); and, Duquesne Light Company (“DLC”). The ROI Programs of each of these electric distribution companies (“EDCs”) are currently before the Commission for final approval following the conclusion of full litigation of each EDC’s default service plan and numerous collaboratives among the stakeholders in each service territory following the Commission’s final default service orders.

The Retail Energy Supply Association (“RESA”)¹ is a strong proponent of the Commission’s efforts to ensure that a properly functioning competitive retail electricity market exists in the Commonwealth consistent with the requirements of the Electricity Generation Customer Choice and Competition Act (“Competition Act”).² A well functioning, robust competitive market is the best way to provide the most innovative products and services at the most reasonable prices. In advance of significant market reforms to achieve that goal, the Commission has been investigating “intermediate” steps that could be implemented to encourage

¹ RESA’s members include: Champion Energy Services, LLC; ConEdison *Solutions*; Constellation NewEnergy, Inc.; Direct Energy Services, LLC; GDF SUEZ Energy Resources NA, Inc.; Hess Corporation; Integrys Energy Services, Inc.; Just Energy; Liberty Power; MC Squared Energy Services, LLC; Mint Energy, LLC; NextEra Energy Services; Noble Americas Energy Solutions LLC; NRG, Inc.; PPL EnergyPlus, LLC; Stream Energy; TransCanada Power Marketing Ltd. and TriEagle Energy, L.P.. The comments expressed in this filing represent the position of RESA as an organization but may not represent the views of any particular member of RESA.

² *Investigation of Pennsylvania’s Retail Electricity Market*, Docket No. I-2011-2237952, Order entered April 29, 2011 at 1; 66 Pa.C.S. § 2801 et. seq.

more consumers to take advantage of the competitive market.³ The ROI Program as well as the standard offer customer referral program (“SOCRP”) are two initiatives intended to achieve that goal. Much time and energy has been spent by Commission staff and all stakeholders determining how these programs should be designed and implemented. Although the current version of each program pending final Commission approval represents various compromises of competing interests (for example, the ROI Program was initially to be an auction rather than the current direct mail program), RESA generally supports the proposals from each EDC⁴ and believes that implementation of these programs consistent with each EDC’s compliance plan would provide significant benefits to consumers. RESA does not share the viewpoint expressed in the Tentative Order that implementation of the ROI and the SOCRP close in time would be confusing for customers and, therefore, does not believe the ROI Program should be indefinitely suspended. As explained further below, these programs are very different and consumers would benefit from having a variety of options available to them.

While RESA supports the current structure for the ROI Programs, RESA strongly believes that a robust and successful ROI Program would significantly benefit consumers and, therefore, has always been willing to consider reasonable modifications to alleviate the concerns of other parties as long as those modifications do not undermine the potential success of the program.⁵ To that end, RESA offers some program modification suggestions below for the

³ *Investigation of Pennsylvania’s Retail Electricity Market: Intermediate Work Plan*, Docket No. I-2011-2237952, Final Order entered March 2, 2012.

⁴ The only caveat to this generalization is the implementation plan of FirstEnergy which is presumably in the process of being redesigned consistent with the Commission’s February 15, 2013 order. The compliance plan is not due to the Commission until April 16, 2013.

⁵ *Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company For Approval of Their Default Service Programs*, Retail Energy Supply Association Reply Comments to Revised Default Service Plan Retail Market Enhancement Programs, Docket Nos. P-2011-2273650, P-2011-2273668, P-2011-2273669, and P-2011-2273670, filed December 20, 2012 at 6-7; and, *Petition of PECO Energy Company For Approval Of Its Default Service*

Commission's consideration. RESA urges the Commission to consider implementing these program modifications in lieu of indefinitely suspending these programs.

II. BACKGROUND

A little over two years ago, in February 2011, the Commission concluded that a statewide investigation should be opened "with the goal of making recommendations for improvements to ensure a properly functioning and workable competitive retail electricity market exists in the state."⁶ After reviewing comments from various stakeholders on how to proceed, the Commission directed its staff and stakeholders to explore the concept of a ROI auction program and SOCRP (among other initiatives) in July 2011.⁷ Based on the information gathered during that process, the Commission ultimately directed the EDCs to implement a retail opt-in auction program and SOCRP – consistent with the guidance set forth in the Commission's *Final Intermediate Work Plan Order* – and to include the EDC-specific proposed program details in each EDC's default service proceeding.⁸

Consistent with the Commission's directions, each EDC included an ROI auction program and SOCRP with their proposed default service plans, all of which were fully litigated at the above-captioned dockets. In the Commission's FirstEnergy Order, the Commission directed that the ROI auction program be converted to an ROI direct mail program which eliminated the use of an auction and instead relies upon a direct mailing of a standardized offer

Program, Retail Energy Supply Association Comments to Revised Default Service Plan Compliance Filing Dated December 11, 2012, Docket No. P-2012-2283641, filed December 27, 2012 at 10-11.

⁶ *Joint Application of West Penn Power Company d/b/a Allegheny Power, Trans-Allegheny Interstate Line Company and FirstEnergy Corp. for a Certificate of Public Convenience under Section 1102(a)(3) of the Public Utility Code approving a change of control of West Penn Power Company and Trans-Allegheny Interstate Line Company*, Docket Nos. A-2012-2176520, A-2010-2176732, Opinion and Order entered March 8, 2011 at 46.

⁷ *Investigation of Pennsylvania's Retail Electricity Market*, Docket No. I-2011-2237952, Opinion and Order entered July 28, 2011 at 11.

⁸ *Investigation of Pennsylvania's Retail Electricity Market: Intermediate Work Plan*, Docket No. I-2011-2237952, Final Order at 20 -78, 104 (ordering ¶ 9), 105 (ordering ¶ 12).

by each EDC to consumers.⁹ The standardized product would be a four-month 5% discount from the EDC's price to compare ("PTC"), followed by an eight-month, fixed price product by participating electric generation suppliers ("EGS"). The EGSs were required to submit their offers for the eight-month phase of the program to the Commission for review. Customers participating in the program would receive a \$50 bonus if they remained in the program for the initial four months. The Commission directed the parties to engage in a collaborative process following the Commission's revised structure and submit the program details to the Commission for approval. The Commission followed this same approach for PECO, PPL and DLC.

Following the Commission's directives, the parties engaged in the various collaborative meetings with each EDC and ultimately each EDC submitted its revised default service plan setting forth the program details for the ROI Program as well as the SOCRP. Various comments and reply comments were filed regarding those compliance filings and they are all currently before the Commission for final approval.¹⁰ Generally, June 1, 2013 was the targeted start date for customers to begin receiving service pursuant to the ROI program.

Through this Tentative Order, the Commission stated its intent to reevaluate the implementation schedule for the ROI Program due to concerns regarding the potential consumer confusion of the program with the SOCRP.¹¹ As set forth below, RESA does not support indefinitely delaying implementation of the ROI Program. However, to the extent program

⁹ *Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company For Approval of Their Default Service Programs*, Docket Nos. P-2011-2273650, P-2011-2273668, P-2011-2273669, and P-2011-2273670, Opinion and Order entered August 16, 2012 at 111.

¹⁰ FirstEnergy's second compliance filing consistent with the Commission's February 15, 2013 order has not yet been filed and it is not due until due April 16, 2013. Compliance filing from the other EDCs setting forth their current proposals regarding the structure of the ROI Programs are pending before the Commission.

¹¹ *Petition of PECO Energy Company for Approval of its Default Service Program II, etc.*, Tentative Order on Reconsideration, Docket Nos. P-2012-2283641, P-2011-2273650, P-2011-2273668, P-2011-2273669, P-2011-2273670, P-2012-2302074, and P-2012-2301664, filed March 14, 2013 at 3.

modifications could be implemented to alleviate the Commission's concerns and permit the programs to go forward, RESA offers some suggestions of acceptable modifications.

III. THE ROI PROGRAM SHOULD NOT BE INDEFINITELY DELAYED AS CONSUMERS BENEFIT FROM IMPLEMENTATION OF VARIOUS PROGRAMS AND THE POTENTIAL FOR CONSUMER CONFUSION IS MINIMAL

The Commission correctly concluded in the *FirstEnergy Default Service Order* that the SOCRP of the FirstEnergy EDCs should be implemented beginning in June 2013 notwithstanding potential overlap with other retail market enhancement initiatives.¹² RESA disagrees that there is any viable reason to revise that determination here. There are a number of reasons why implementation of the ROI Program and the SOCRP program close in time will not create confusion.

At the outset, the programs are different. The ROI Program is essentially a one-time direct mailing by the EDC of a standardized offer from participating EGSs. The SOCRP is an on-going program whereby default service customers contacting the EDC are offered the opportunity to elect a standardized product. Because it is a one-time direct mailing program, the ROI Program is a cost-effective program that can be implemented quickly to help introduce consumers to the competitive market. The SOCRP, which reaches default service customers through their telephone contact with the EDC, presents an on-going opportunity for a variety of EGSs to reach consumers. Importantly, customers who choose to participate in the ROI Program (in response to the mailing), would not be offered the opportunity to participate in the SOCRP in their telephone contact with the EDC. Each program offers different opportunities for consumers and participating EGSs and the implementation of one should not delay the implementation of the other.

¹² *FirstEnergy Default Service Order* at 150.

Importantly, the ROI Program is similar to the successful direct mail program of individual EGS offers to residential and small commercial and industrial customers that has occurred in the service territories of FirstEnergy over the past several years.¹³ In those direct mail programs, the EDCs mailed customers the offers of participating EGSs. Approximately 1.6 million residential customers and 186,000 small commercial and industrial customers received these mailings from their specific EDC as a result of this direct mail program.¹⁴ Like the ROI Program, customers were required to contact one of the EGSs to commence service and the number of customers choosing a competitive supplier after the mailings increased.¹⁵ To RESA's knowledge, there were no consumer complaints regarding slamming nor any expressed confusion about the fact that the EDC was providing information directly to its customers about EGS offers.¹⁶

¹³ See, e.g. *Joint Petition of Metropolitan Edison Company and Pennsylvania Electric Company for Approval of Their Default Service Programs* Docket Nos. P-2009-2093053 and P-2009-2093054, Opinion and Order entered November 6, 2009 at 20-21 (mailings were sent in 2011 and 2012); *Petition of Pennsylvania Power Company for approval of default service program for period from January 1, 2011 through May 31, 2013*, PUC Docket No. P-2010-2157862, Opinion and Order entered on November 17, 2010 (the approved settlement provided for mailings that were first sent in November 2012 and an additional mailing was scheduled for February 2013); *Joint Application of West Penn Power Company d/b/a Allegheny Power, Trans-Allegheny Interstate Line Company and FirstEnergy Corp. for a Certificate of Public Convenience under Section 1102(a)(3) of the Public Utility Code approving a change of control of West Penn Power Company and Trans-Allegheny Interstate Line Company*, PUC Docket Nos. A-2010-2176520; A-2010-2176732, Opinion and Order entered March 8, 2011 (the approved settlement provided for mailings to customers regarding competitive offers and promotion of shopping opportunities which were sent in September 2012).

¹⁴ For Met-Ed, 495,000 residential customers and 40,000 small commercial and industrial customers received the mailings. For Penelec, 500,000 residential and 51,000 small commercial and industrial customers received the mailings. For Penn Power, 143,000 residential and 20,000 small commercial and industrial customers received the mailings. For Allegheny Power, 505,000 residential and 75,000 small commercial and industrial customers received mailings. These numbers are based on the number of inserts that were required by FirstEnergy to participate in each of the mailings.

¹⁵ For example, prior to implementation of this direct mail program, 3.4% of Met-Ed and 12% of Penelec residential customer load was served by an alternative supplier. See *Pennsylvania Electric Shopping Statistics*, Pennsylvania Office of Consumer Advocate, dated October 1, 2011. Today, 28.6% of Met-Ed and 33.3% of Penelec residential customer load is served by an alternative supplier. See *Pennsylvania Electric Shopping Statistics*, Pennsylvania Office of Consumer Advocate, dated January 1, 2013.

¹⁶ To the extent the Commission remains concerned about the mailing of the offer from the EDC, other measures beyond delaying implementation of the program should be considered. For example, the letter from the EDC can include specific disclaimer language. Or, similar to the method used by the Commission

The only difference between the FirstEnergy direct mail program and the ROI Program here is that all the EGSs participating in the ROI Program are required to make the same exact offer (at least for the first four months pursuant to the current structure).¹⁷ This standardization of the offer should be viewed as making the program more beneficial from a consumer perspective because participation in the program identifies the offer the customer will receive and has the added incentive of providing a \$50 bonus as an incentive to participate. Given these value added program elements, there is simply no reason to doubt that implementation of the ROI Program will not be as successful, or more successful, than the FirstEnergy direct mailing program.

In sum, both the ROI Program and SOCRP are valuable tools to incent consumers to participate in the competitive market and RESA submits that the Commission should concentrate on implementing the ROI Program as soon as practical in order for customers to take advantage of the incentives of the program. Delaying implementation of the ROI Program would remove an opportunity for substantial savings to customers. For example, assuming a 5% discount from the next available PTC, and a conservative 10% participate rate, customers could lose an estimated \$970,000 in savings for each month the ROI Program is delayed. In addition, Pennsylvania customers will be denied the benefit of approximately \$16 million derived from the fifty dollar bonus available through the program. These potential savings warrant moving forward as expeditiously as possible in implementing the ROI Program. RESA believes that consumers will be able to distinguish and understand the differences in these programs, just as

whereby a letter from the Chairman was sent to customers about choice, the EDCs could simply mail a letter from the Commission explaining the program.

¹⁷ To the extent there are concerns regarding customer confusion at the time the final eight-month phase of the program begins, an appropriate way to such concerns would be to tweak the offer (and RESA offers some suggestions below) rather than choosing not to offer it at all.

they can assess varying offers in the marketplace. Much work has been undertaken to date to arrive at this point and RESA urges the Commission to stay the course and permit these programs to move forward consistent with the tremendous efforts of the parties and the support of the evidentiary records developed in each of the four default service proceedings.

IV. IN LIEU OF SUSPENDING THE ROI PROGRAM, THE COMMISSION COULD CONSIDER IMPLEMENTING A 12-MONTH, DISCOUNT OFF PTC AT TIME OF ENROLLMENT PROGRAM TO ALLEVIATE ANY CONSUMER CONCERNS

The ROI Program, consistent with the Commission's directed design, would offer residential customers a four-month 5% discount from the EDC's price to compare PTC, followed by an eight-month, fixed price product by participating EGSs. Additionally, customers would receive a \$50 bonus if they remain in the program for the first four months. RESA continues to support this program structure and believes that, if it is implemented without changes it will provide optimal benefits to consumers; therefore, RESA urges the Commission to reconsider delaying implementation of the ROI Program. To the extent, however, reasonable modifications could be made to alleviate the concerns of the Commission regarding consumer confusion and still ensure a successful program, then RESA would support the implementation of such modifications in lieu of delaying the program's implementation.

Such modifications could include revising the ROI Program product to a fixed price offer that would remain constant during the twelve months of the program term to avoid any potential confusion to the customer caused by the price changing after the first four months. As currently structured, the ROI Program permits participating EGSs to offer a different fixed price for the final eight-month phase of the ROI Program, subject to the Commission's review. Offering one fixed price product for the full twelve months would ameliorate any potential consumer concerns about being were lured into the program by one price, only to receive a potentially different price

during the last eight months.¹⁸ RESA could support a 5-7% discount off the PTC at the time of enrollment with that price staying constant throughout the entire twelve months of the program term. RESA also supports maintaining the \$50 bonus for enrollment to be provided to customers if they remain in the program for four months. Maintaining this bonus has the advantage of creating an incentive for consumers to participate and remain in the ROI Program. The incentive would be a one-time offer for consumers consistent with the one-time nature of the ROI Program. RESA believes that these tweaks satisfactorily address consumer concerns regarding the product to be offered through the ROI Program so that the program can be implemented without delay.

In sum, RESA supports the ROI Program as currently structured but acknowledges that the Commission has expressed concerns about potential customer confusion regarding implementation of the ROI Program close in time to introducing the SOCRP. In lieu of delaying the ROI Program, however, RESA recommends that the Commission consider tweaking the product offered through the ROI Program to allay any concerns regarding consumer confusion. RESA believes that these modifications reasonably address concerns that have been raised while still designing an ROI Program in which EGSs will choose to participate so that consumers can be offered the opportunity to participate in the competitive market.

V. IF THE COMMISSION CHOOSES TO DELAY THE ROI PROGRAM, THEN A NEW IMPLEMENTATION DATE OF SEPTEMBER 1, 2013 SHOULD BE ESTABLISHED

While RESA would prefer that the ROI product be available to consumers consistent with the currently proposed start date for each EDC, generally June 1, 2013, given the implementation steps (including Commission approval) that have to take place before then,

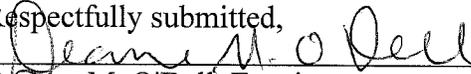
¹⁸ RESA strongly opposes that such consumer confusion is reasonable but recognizes that this is a concern that has been raised by other parties.

RESA is amenable to a September 1, 2013 start date which would be consistent with the implementation of a new PTC for each EDC. As explained in RESA's comments to FirstEnergy's Revised Default Service Plan, knowing the PTC in effect at the time service is delivered pursuant to the program is critically important for the EGSs so that they can determine their ability to participate.¹⁹ Therefore, if the implementation date must be delayed, the next feasible implementation date would be September 1, 2013 because that is when all the PTCs of the applicable EDCs change again. Rather than indefinitely delaying this program, the Commission should establish September 1, 2013 as the new target date if it continues to believe some delay is warranted.

VI. CONCLUSION

For the reasons set forth above, RESA respectfully requests that the Commission reconsider its tentative conclusion to delay the implementation of the Retail Opt-In program and, instead, take whatever steps necessary to alleviate any concerns about implementation of the program so that it can be implemented as soon as possible.

Respectfully submitted,


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¹⁹ *Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company For Approval of Their Default Service Programs, Retail Energy Supply Association Reply Comments to Revised Default Service Plan Retail Market Enhancement Programs, Docket Nos. P-2011-2273650, P-2011-2273668, P-2011-2273669, and P-2011-2273670, filed December 10, 2012 at 13-15.*