

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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April 25, 2013

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17101

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

Dear Secretary Chiavetta:

Enclosed please find the Office of Consumer Advocate's Comments to the Third Revised Default Service Plan Compliance Filing of April 15, 2013 in the above-referenced proceeding.

Copies have been served on the parties listed on the attached Certificate of Service.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Christy M. Appleby".

Christy M. Appleby
Assistant Consumer Advocate
PA Attorney I.D. #85824

Attachment

cc: Honorable Dennis J. Buckley, ALJ
Office of Special Assistants
Certificate of Service

164080

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of PECO Energy Company	:	
For Approval of its Default Service	:	Docket No. P-2012-2283641
Service Program	:	

COMMENTS
TO THE THIRD REVISED
DEFAULT SERVICE PLAN
COMPLIANCE FILING
OF APRIL 15, 2013

I. INTRODUCTION

On October 12, 2012, the Pennsylvania Public Utility Commission (Commission) entered an Opinion and Order (October 12 Order) in the above-captioned proceeding involving the Default Service Plan II (DSP II) of PECO Energy Company (PECO or the Company). In the October 12 Order, the Commission directed PECO to submit new proposals for various aspects of its DSP II. October 12 Order at 155-157. In particular, the Commission ordered PECO to submit new proposals for the Company's Retail Market Enhancement (RME) Programs and a revised cost recovery mechanism for the Opt-In and Referral Programs. Id. The Commission directed PECO to create new proposals after discussion and consultation with the other parties and stakeholders and submit them within sixty days of entry of the October 12 Order. Id. Thereafter, on December 11, 2012, PECO submitted its Revised Default Service Plan Compliance Filing (Revised Plan) to the Commission.

On February 14, 2013, the Commission issued its Order on PECO's Revised Plan (February 14 Order). In the February 14 Order, the Commission proposed two options regarding the cost recovery for each of the RME Programs:

Based on the record before us, this Commission is persuaded that a very reasonable accommodation of all the party's [sic] positions should be incorporated into this resolution. As to the Retail Opt-in program, we agree with RESA that a fee of the lesser of \$1 per assigned customer or actual program costs to EGS participants is appropriate. Any remaining costs should be recovered in either one of two ways- through a non-bypassable surcharge, as proposed by RESA, or shared with 50% from the POR [Purchase of Receivables] discount and 50% from residential and small commercial default service customers.

As to the SOP [Standard Offer Program], we agree with RESA that a fee of the lesser of \$30/customer or actual costs per referred customer is appropriate. Any remaining costs should be recovered in either one of two ways – through a non-by-passable surcharge, as proposed by RESA, or shared with 50% from the POR discount and 50% from residential and small commercial default service customers.

It is the opinion of this Commission that participant costs must be capped in order to attract participation in these programs, and also to provide proper cost incentives for EDCs to minimize implementation costs. It is also clear that these programs have the potential to benefit all residential and small commercial customers who avail themselves of the myriad of EGS offers. Specifically, these programs are mainly targeted at default service customers, yet it is also true that all customer groups can participate- even if they are already shopping. Moreover, these programs are designed to enhance the competitive market, from which all customers will benefit over time.

February 14 Order at 13-14. The Commission ordered PECO to file a Second Revised Plan within sixty days. Id. at Ordering ¶ 2.

On February 28, 2013, PECO filed its Second Revised Default Service Plan Compliance Filing (Second Revised Plan) addressing the cost recovery mechanism. The Office of Consumer Advocate (OCA) filed Comments opposing PECO's proposal to recover 50% of the costs in excess of the \$30 per customer referred cap from default service customers. The Office of Small Business Advocate (OSBA) also filed Comments in support of the OCA's Comments. PECO filed Reply Comments to the Second Revised Plan. To date, the Commission has not ruled on PECO's Second Revised Plan.

On March 14, 2013, the Commission issued its Tentative Order on Reconsideration (Tentative Order) regarding the proposed Retail Opt-In (ROI) Program implementation schedule for PECO; Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, and West Penn Power Company (collectively the FirstEnergy Companies); PPL Electric Utilities Corporation (PPL) and Duquesne Light Company (Duquesne). In its Tentative Order for Reconsideration (Tentative Order), the Commission stated:

We tentatively plan to postpone implementation of the ROI Program in each of the affected EDC service territories in order to permit the Standard Offer Customer Referral Program to move forward on its own. The Commission will revisit the ROI Program after we have had the opportunity to consider the ongoing results of the Standard Offer Referral Program.

Tentative Order at 3. The Commission additionally stated that “[w]e are concerned that the implementation of the ROI Program so close in time to the implementation of the Standard Offer Referral Program may result in confusion for customers.” Tentative Order at 3. The OCA filed Comments in support of the proposal to postpone the ROI program and to revisit it at a later date. The OCA also stated that it remained concerned that the final costs of the Standard Offer Program have yet to be identified by the EDCs because without the final costs identified, ratepayers could potentially be exposed to an unknown level of program costs that could far exceed any benefits to customers of the program. The OCA requested that all efforts be directed at designing and implementing a Standard Offer Referral Program that remains within the capped Electric Generation Supplier (EGS) charge of \$30 per customer.

On April 4, 2013, the Commission issued a Final Order (April 4 Final Order) which directed PECO and the EDCs to postpone the implementation of the ROI Program and submit conforming revisions to their Default Service Plans within thirty days.

On April 15, 2013, PECO filed its Third Revised Default Service Plan Compliance Filing. In its Third Revised Plan, PECO proposed changes to: (1) expand the Standard Offer Program to Small Commercial Customers; (2) revise the implementation date for the Standard Offer Program from June 1, 2013 for residential customers and August 14, 2013 for small business customers until August 19, 2013 for both residential and small business customers; (3) make amendments to its Affiliated Interest Agreement in order to incorporate small business customers into the Standard Offer Program; and (4) suspend the ROI Program. Third Revised Plan at ¶¶ 10-16.

The OCA files these Comments in response to the Third Revised Plan.

II. COMMENTS

A. Overview

In its Third Revised Plan, PECO proposed to suspend the implementation of the Retail Opt-In (ROI) Program pursuant to the Commission's April 4 Final Order. The Company also proposed including small commercial customers in the Standard Offer Program and revising the start date for the Standard Offer Program for both residential and small commercial customers until August 19, 2013. The OCA supports the suspension of the ROI Program until a later date and the revision to the start date for the Standard Offer Program. PECO's Third Revised Plan also continues PECO's proposal for cost recovery of the Standard Offer Program.¹ The OCA continues to submit that steps must be taken to minimize the costs of the Standard Offer Program so that the costs remain within the cap of \$30 per referred customers assessed to EGSS.

¹ The OCA notes that the Commission has not yet ruled on PECO's Second Revised Plan.

B. Suspension of the ROI Program

The Third Revised Plan includes the suspension of the ROI Program as the Commission directed in its April 4 Final Order. Third Revised Plan at ¶¶ 14-15. The OCA supported the Commission's Tentative Order and shared the Commission's concern that the implementation of the ROI Program close in time to the Standard Offer Program would cause customer confusion and compromise the success of both programs. Both of the programs had similar intent and terms that were similar. The OCA agrees with PECO's proposal to suspend the ROI Program as directed by the Commission's April 4 Final Order.

C. Revised Start Date for Standard Offer Program

In its Third Revised Plan, PECO proposes to revise the start date for the Standard Offer Program for residential customers from June 1, 2013 to August 19, 2013 and for small business customers from August 14, 2013 to August 19, 2013. PECO proposes to revise the start date "as a result of extended proceedings for approval of the Standard Offer Program, the required Program revisions, and the opportunity to achieve certain synergies in designing and implementing the Program for both residential and small commercial customers at the same time." Third Revised Plan at ¶ 10. The OCA supports the Company's proposal to revise the start date to August 19, 2013 for both residential and small commercial customers. Since the Company avers that potential synergies or savings can be achieved by starting the Standard Offer Program at the same time for residential and small commercial customers, it makes sense to delay the start of the Standard Offer Program to achieve this goal. Additionally, the OCA submits that it will also likely reduce any potential customer and call center representative confusion about the programs and the availability of the Standard Offer Program. Therefore, the

OCA recommends that the Company's proposal to delay the start date until August 19, 2013 be approved.

D. Costs of the Standard Offer Program

In the Commission's February 14 Order, the Commission proposed a new cost recovery mechanism for the Standard Offer Program. The Commission established a \$30 per customer referred cap to be paid by participating EGSs for the Standard Offer Program and then allowed for any costs in excess of the participating EGS cap to be paid for through a non-bypassable surcharge, or shared 50/50, with 50% from default service customers and 50% from the Purchase of Receivables (POR) discount. February 14 Order at 13-14. In its Second and Third Revised Plans, PECO selected the approach that calls for any excess costs not recovered through the direct payments by participating EGSs to be shared 50/50 between default service customers and the POR discount. On March 11, 2013, the OCA filed Comments regarding its concerns about the proposed cost recovery mechanism included in PECO's Second Revised Plan. The OCA argued that the program should be designed to remain within the capped amounts identified by the Commission for payment by participating suppliers without resorting to default service customers to pay the difference.² The OCA argued that the Standard Offer Program should not be approved until the cost issue is resolved. PECO has provided no further information as to the cost of the Standard Offer Program in its Third Revised Plan.

At this juncture, the OCA submits that there is still no evidence to determine whether any cost recovery from customers for PECO's Standard Offer Program is reasonable. PECO has not provided any final cost estimates for the program and has not identified any

² The OCA respectfully disagrees with the Commission's conclusion that default service customers should be asked to fund these programs to any degree, as these programs are designed to increase market share for participating EGSs without incurring substantial one-on-one acquisition costs. As a replacement for acquisition costs, the programs should move forward only to the extent that the program costs are absorbed by the EGSs and are less than what the EGS would incur to acquire customers.

efforts to reduce the program costs in light of the Commission's establishment of the capped charges. The Commission specifically stated:

It is the opinion of this Commission that participant costs must be capped in order to attract participation in these programs, and also to provide proper cost incentives for EDCs to minimize implementation costs.

February 14 Order at 13-14 (emphasis added).

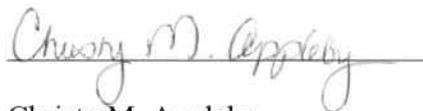
Given the proposed delay in the start of the program, PECO should be directed to work expeditiously with its stakeholders to design a program that can be offered within the \$30 per customer enrolled cap. In PPL's recent Reply Comments regarding its Revised Retail Opt-In and Standard Offer Programs at Docket No. P-2012-2302074, PPL stated that it anticipated being able to implement this program for less than the cap of \$30 per enrolled customer. PPL Reply Comments at 8. In order to contain the costs of this program, PECO should examine the PPL approach, as well as the Duquesne approach which proposes to implement the program below the \$30 per enrolled customer cap. See, Duquesne Light Company Revised Retail Market Enhancement Program Design and Cost-Recovery Proposal, Docket No. P-2013-2301664, Paragraph 61 (March 11, 2013).

The Commission should not approve either the Second Revised Plan or the Third Revised Plan until the Commission and the parties know the precise amounts that they will be expected to pay for the Standard Offer Program and whether such amounts are reasonable. The OCA submits that it remains incumbent upon PECO to revisit the program design and to seek to implement the program within the cost cap established by the Commission. The delayed start provides the time to develop a reasonable implementation plan within the cost parameter established by the Commission.

III. CONCLUSION

WHEREFORE, the Office of Consumer Advocate respectfully requests that PECO's Third Revised Plan be approved, in part, and denied, in part. The OCA requests that the proposals to revise the start date for the Standard Offer Referral Program to August 19, 2013 and to suspend the implementation of the ROI Program be approved. The OCA respectfully requests that the cost recovery included within the Second and Third Revised Plans should not be approved until further information on the Standard Offer Program costs is provided and addressed.

Respectfully Submitted,



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DATE: April 25, 2013
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CERTIFICATE OF SERVICE

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

I hereby certify that I have this day served a true copy of the foregoing document, the Office of Consumer Advocate's Comments to the Third Revised Default Service Plan Compliance Filing of April 15, 2013, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 25th day of April 2013.

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