

Morgan, Lewis & Bockius LLP  
1701 Market Street  
Philadelphia, PA 19103-2921  
Tel: 215.963.5000  
Fax: 215.963.5001  
www.morganlewis.com

**Morgan Lewis**  
C O U N S E L O R S   A T   L A W

**Kenneth M. Kulak**  
Partner  
215.963.5384  
kkulak@morganlewis.com

May 23, 2013

**VIA eFILING**

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

**Re:   Petition of PECO Energy Company for Approval of Its Default Service  
      Program (Customer Assistance Program Shopping Plan)  
      Docket No. P-2012-2283641**

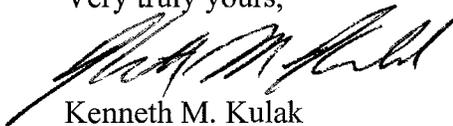
---

Dear Secretary Chiavetta:

Enclosed please find the **Prehearing Conference Memorandum of PECO Energy Company regarding Approval of Its Customer Assistance Program Shopping Plan** in the above-referenced matter.

If you have any questions regarding this filing, please do not hesitate to contact me at 215-963-5384.

Very truly yours,



Kenneth M. Kulak

KMK/tp  
Enclosure

c: Certificate of Service

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**PETITION OF PECO ENERGY  
COMPANY FOR APPROVAL OF ITS  
DEFAULT SERVICE PROGRAM  
(CUSTOMER ASSISTANCE PROGRAM  
SHOPPING PLAN)**

**DOCKET NO. P-2012-2283641**

**CERTIFICATE OF SERVICE**

I hereby certify and affirm that I have this day served copies of the **Prehearing Conference Memorandum of PECO Energy Company regarding Approval of Its Customer Assistance Program Shopping Plan** on the following persons in the matter specified in accordance with the requirements of 52 Pa. Code § 1.54.

**VIA ELECTRONIC MAIL AND FIRST CLASS MAIL**

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

Honorable Cynthia Williams Fordham  
Administrative Law Judge  
Office of Administrative Law Judge  
801 Market Street  
Suite 4063  
Philadelphia, PA 19107  
[cfordham@pa.gov](mailto:cfordham@pa.gov)

Tanya J. McCloskey  
Senior Assistant Consumer Advocate  
Candis A. Tunilo  
Christy M. Appleby  
Amy Hirakis  
Assistant Consumer Advocates  
Office of Consumer Advocate  
555 Walnut Street  
5th Floor, Forum Place  
Harrisburg, PA 17101-1923  
[tmccloskey@paoca.org](mailto:tmccloskey@paoca.org)  
[ctunilo@paoca.org](mailto:ctunilo@paoca.org)  
[cappleby@paoca.org](mailto:cappleby@paoca.org)  
[ahirakis@paoca.org](mailto:ahirakis@paoca.org)  
[cshoen@paoca.org](mailto:cshoen@paoca.org)

Elizabeth Rose Triscari  
Assistant Small Business Advocate  
Office of Small Business Advocate  
300 North Second Street  
Suite 1102  
Harrisburg, PA 17101  
[etriscari@pa.gov](mailto:etriscari@pa.gov)

Carrie B. Wright  
Pennsylvania Public Utility Commission  
Bureau of Investigation & Enforcement  
Commerce Keystone Building  
400 North Street, 2nd Floor  
P.O. Box 3265  
Harrisburg, PA 17105-3265  
[carwright@pa.gov](mailto:carwright@pa.gov)

Todd S. Stewart  
Hawke McKeon & Sniscak LLP  
P.O. Box 1778  
100 N. Tenth Street  
Harrisburg, PA 17105-1778  
[tsstewart@hmslegal.com](mailto:tsstewart@hmslegal.com)  
*Counsel for Dominion Retail, Inc. and  
Interstate Gas Supply, Inc.*

Daniel Clearfield  
Deanne M. O'Dell  
Edward G. Lanza  
Eckert Seamans Cherin & Mellott, LLC  
213 Market Street, 8th Floor  
P.O. Box 1248  
Harrisburg, PA 17101  
[dclearfield@eckertseamans.com](mailto:dclearfield@eckertseamans.com)  
[dodell@eckertseamans.com](mailto:dodell@eckertseamans.com)  
[elanza@eckertseamans.com](mailto:elanza@eckertseamans.com)  
*Counsel for the Retail Energy Supply  
Association and Direct Energy  
Services, LLC*

Tori L. Giesler  
FirstEnergy Service Company  
2800 Pottsville Pike  
P.O. Box 16001  
Reading, PA 19612-6001  
[tgiesler@firstenergycorp.com](mailto:tgiesler@firstenergycorp.com)  
*Counsel for Metropolitan Edison Company,  
Pennsylvania Electric Company,  
Pennsylvania Power Company, and West  
Penn Power Company*

Thu B. Tran  
Robert W. Ballenger  
George D. Gould  
Josie Pickens  
Community Legal Services, Inc.  
1424 Chestnut Street  
Philadelphia, PA 19102  
[ttran@clsphila.org](mailto:ttran@clsphila.org)  
[rballenger@clsphila.org](mailto:rballenger@clsphila.org)  
[ggould@clsphila.org](mailto:ggould@clsphila.org)  
[jpickens@clsphila.org](mailto:jpickens@clsphila.org)  
*Counsel for TURN et al.*

Brian J. Knipe  
FirstEnergy Service Company  
76 S. Main Street  
Akron, OH 44308  
[bknipe@firstenergycorp.com](mailto:bknipe@firstenergycorp.com)  
*Counsel for FirstEnergy Solutions Corp.*

Charis Mincavage  
Adeolu A. Bakare  
McNees Wallace & Nurick LLC  
100 Pine Street  
P.O. Box 1166  
Harrisburg, PA 17108-1166  
[cmincavage@mwn.com](mailto:cmincavage@mwn.com)  
[abakare@mwn.com](mailto:abakare@mwn.com)  
[lcharlet@mwn.com](mailto:lcharlet@mwn.com)  
[lhuff@mwn.com](mailto:lhuff@mwn.com)  
*Counsel for the Philadelphia Area Industrial Energy Users Group*

Amy M. Klodowski  
FirstEnergy Solutions Corp.  
800 Cabin Hill Drive  
Greensburg, PA 15601  
[aklodow@firstenergycorp.com](mailto:aklodow@firstenergycorp.com)  
*Counsel for FirstEnergy Solutions Corp.*

Jeffrey J. Norton  
Carl R. Shultz  
Eckert Seamans Cherin & Mellott, LLC  
213 Market Street, 8th Floor  
P.O. Box 1248  
Harrisburg, PA 17101  
[jnorton@eckertseamans.com](mailto:jnorton@eckertseamans.com)  
[cshultz@eckertseamans.com](mailto:cshultz@eckertseamans.com)  
*Counsel for Green Mountain Energy Company and ChoosePAWind*

Divesh Gupta  
Managing Counsel - Regulatory  
Constellation Energy  
100 Constellation Way, Suite 500C  
Baltimore, MD 21202  
[divesh.gupta@constellation.com](mailto:divesh.gupta@constellation.com)  
*Counsel for Constellation Energy*

Stephen L. Huntoon  
David Applebaum  
NextEra Energy Resources, LLC  
801 Pennsylvania Avenue, N.W., Suite 220  
Washington, D.C. 20004  
[shuntoon@nexteraenergy.com](mailto:shuntoon@nexteraenergy.com)  
[david.applebaum@nexteraenergy.com](mailto:david.applebaum@nexteraenergy.com)  
*Counsel for NextEra Energy Resources*

Scott H. DeBroff  
Alicia R. Duke  
Rhoads & Sinon, LLP  
One South Market Square, 12th Floor  
P.O. Box 1146  
Harrisburg, PA 17108-1146  
[sdebroff@rhoads-sinon.com](mailto:sdebroff@rhoads-sinon.com)  
[aduke@rhoads-sinon.com](mailto:aduke@rhoads-sinon.com)  
*Counsel for Washington Gas Energy Services, Inc.*

Charles E. Thomas, III  
Thomas, Long, Niesen & Kennard  
212 Locust Street  
P.O. Box 9500  
Harrisburg, PA 17108-9500  
[cet3@thomaslonglaw.com](mailto:cet3@thomaslonglaw.com)  
[bmerola@noblesolutions.com](mailto:bmerola@noblesolutions.com)  
*Counsel for Noble Americas Energy  
Solutions LLC*

Patrick M. Cicero  
Harry S. Geller  
Pennsylvania Utility Law Project  
118 Locust Street  
Harrisburg, PA 17101  
[pulp@palegalaid.net](mailto:pulp@palegalaid.net)  
[hgellerpulp@palegalaid.net](mailto:hgellerpulp@palegalaid.net)  
*Coalition for Affordable Utility Services  
and Energy Efficiency in Pennsylvania*

Amy E. Hamilton  
Director, Public Policy  
Noel Trask  
Exelon Generation Company  
300 Exelon Way  
Kennett Square, PA 19348  
[amy.hamilton@exeloncorp.com](mailto:amy.hamilton@exeloncorp.com)  
*Counsel for Exelon Generation Co.,  
LLC and Exelon Energy Company*

Telemac N. Chryssikos  
Washington Gas Energy Services, Inc  
101 Constitution Avenue, N.W., Room 319  
Washington, D.C. 20080  
[tchryssikos@washgas.com](mailto:tchryssikos@washgas.com)  
*Counsel for Washington Gas Energy  
Services, Inc.*

Jodi S. Larison  
Senior Manager, Business Development  
UGI Energy Services, Inc.  
One Meridian Boulevard, Suite 2C01  
Wyomissing, PA 19610  
[jlarrison@ugies.com](mailto:jlarrison@ugies.com)  
*Counsel for UGI Energy Services, Inc.*

David I. Fein  
Vice President, State Government Affairs - East  
Exelon Corporation  
10 S. Dearborn Street  
47th Floor  
Chicago, Illinois 60603  
[david.fein@exeloncorp.com](mailto:david.fein@exeloncorp.com)  
*Counsel for Constellation Energy*

Melanie J. Elatieh  
UGI Corporation  
460 North Gulph Road  
King of Prussia, PA 19406  
[elatiehm@ugicorp.com](mailto:elatiehm@ugicorp.com)  
*Counsel for UGI Energy Link*

Thomas McCann Mullooly  
Foley & Lardner LLP  
777 East Wisconsin Avenue  
Milwaukee, WI 53202  
[tmullooly@foley.com](mailto:tmullooly@foley.com)  
[sdzieminski@foley.com](mailto:sdzieminski@foley.com)  
*Counsel for Exelon Generation Co.,  
LLC and Exelon Energy Company*

Melanie Santiago-Mosier  
Washington Gas Energy Services, Inc  
13865 Sunrise Valley Drive, Suite 200  
Herndon, VA 20171  
[mmosier@wges.com](mailto:mmosier@wges.com)  
*Counsel for Washington Gas Energy  
Services, Inc.*

Andrew S. Tubbs  
Post & Schell, P.C.  
17 North Second Street, 12th Floor  
Harrisburg, PA 17101-1601  
[atubbs@postschell.com](mailto:atubbs@postschell.com)  
*Counsel for PPL Energy Plus, LLC*

Jesse A. Dillon  
PPL Services Corporation  
Office of General Counsel  
Two North Ninth Street  
Allentown, PA 18106  
[jadillon@pplweb.com](mailto:jadillon@pplweb.com)  
*Counsel for PPL Energy Plus, LLC*

Veronica Ludt  
Legal Center Director  
109 E. Price Street  
Philadelphia, PA 19144  
*Counsel for Face to Face*

Maripat Pileggi  
Community Legal Services, Inc.  
1424 Chestnut Street  
Philadelphia, PA 19102  
[mpileggi@clsphila.org](mailto:mpileggi@clsphila.org)  
*Counsel for ACHIEVA, et al.*

Laurie Baughman  
Elizabeth Marx  
3605 Vartan Way, Suite 101  
Harrisburg, PA 17110  
[lbaughman@pcadv.org](mailto:lbaughman@pcadv.org)  
[emarx@pcadv.org](mailto:emarx@pcadv.org)  
*Counsel for Pennsylvania Coalition  
Against Domestic Violence (PCADV)*

Steven Larin  
Acting Executive Director  
Nationalities Service Center  
1216 Arch Street, 4th Floor  
Philadelphia, PA 19107  
[info@nscphila.org](mailto:info@nscphila.org)

Richard Hahn  
Douglas Smith  
Dan Koehler  
La Capra Associates  
One Washington Mall, 9th Floor  
Boston, MA 02108  
[rhahn@lacapra.com](mailto:rhahn@lacapra.com)  
[dkoehler@lacapra.com](mailto:dkoehler@lacapra.com)  
[das@lacapra.com](mailto:das@lacapra.com)

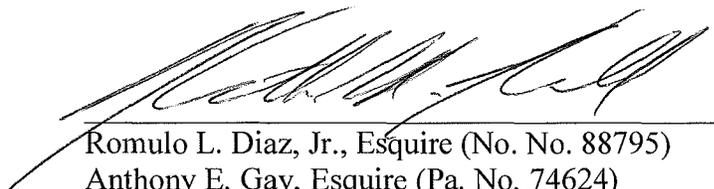
Will Gonzalez  
Executive Director  
CEIBA  
149 W. Susquehanna Avenue  
Philadelphia, PA 19122  
[will.gonzalez@ceibaphiladelphia.org](mailto:will.gonzalez@ceibaphiladelphia.org)

H. Gil Peach, Ph.D.  
H. Gil Peach & Associates, LLC  
16232 NW Oak Hills Drive  
Beaverton, OR 97006  
[hgipeach@scanamerica.net](mailto:hgipeach@scanamerica.net)

Natasha Keleman  
Executive Director  
Pennsylvania Immigration & Citizenship  
Coalition  
2100 Arch Street, 7th Floor  
Philadelphia, PA 19103  
[admin@paimmigrant.org](mailto:admin@paimmigrant.org)

Barbara Alexander  
Consumer Affairs Consultant  
83 Wedgewood Drive  
Winthrop, ME 04364  
[barbalex@ctel.net](mailto:barbalex@ctel.net)

Brian Kalcic  
Excel Consulting  
Suite 702-T  
225 S. Meramec Avenue  
St. Louis, MO 63105  
[excel.consulting@sbcglobal.net](mailto:excel.consulting@sbcglobal.net)



Romulo L. Diaz, Jr., Esquire (No. No. 88795)  
Anthony E. Gay, Esquire (Pa. No. 74624)  
Jack R. Garfinkle, Esquire (Pa. No. 81892)  
PECO Energy Company  
2301 Market Street  
P.O. Box 8699  
Philadelphia, PA 19101-8699  
Phone: 215.841.4635  
Fax: 215.568.3389  
E-mail: [romulo.diaz@exeloncorp.com](mailto:romulo.diaz@exeloncorp.com)

Thomas P. Gadsden, Esquire (Pa. No. 28478)  
Kenneth M. Kulak, Esquire (Pa. No. 75509)  
Brooke E. McGlinn, Esquire (Pa. No. 204918)  
Morgan, Lewis & Bockius LLP  
1701 Market Street  
Philadelphia, PA 19103-2921  
Phone: 215.963.5234  
Fax: 215.963.5001  
E-mail: [tgadsden@morganlewis.com](mailto:tgadsden@morganlewis.com)

*Counsel for PECO Energy Company*

May 23, 2013

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**PETITION OF PECO ENERGY :  
COMPANY FOR APPROVAL OF ITS :  
DEFAULT SERVICE PROGRAM : DOCKET NO. P-2012-2283641  
(CUSTOMER ASSISTANCE PROGRAM :  
SHOPPING PLAN) :**

---

**PREHEARING CONFERENCE MEMORANDUM OF  
PECO ENERGY COMPANY**

---

**INTRODUCTION**

Pursuant to the May 16, 2013 Prehearing Order issued by Administrative Law Judge Cynthia W. Fordham (the “ALJ”) and the Pennsylvania Public Utility Commission’s (“Commission”) regulations at 52 Pa. Code § 5.222(d), PECO Energy Company (“PECO” or the “Company”) hereby submits its Prehearing Conference Memorandum in the above-captioned proceeding.

**I. HISTORY OF THE PROCEEDING**

On May 1, 2013, PECO petitioned the Commission to approve its plan to facilitate shopping in Pennsylvania’s competitive retail electricity market by low income customers participating in PECO’s Customer Assistance Program (“CAP”). PECO’s plan (the “Plan” or “CAP Shopping Plan”) was proposed in accordance with the Commission’s October 12, 2012 Order issued in this proceeding (“October 2012 Order”) approving PECO’s Default Service Program for the period June 1, 2013 to May 31, 2015 (“DSP II”). In the October 2012 Order, the Commission provided that:

18. . . . PECO Energy Company is directed to develop a plan that will allow its CAP customers to purchase their generation supply from [electric generation suppliers, or “EGSs”] by January 1, 2014. Toward this end, we shall direct [the Office of Competitive Market Oversight] to work with PECO to: (1) ensure that, to the extent possible, . . . [the] Standard Offer Program [is] available to CAP customers; and (2) provide a path that allows both CAP credits and LIHEAP funds to be used by customers that choose an EGS to supply their generation service.

*See* October 2012 Order, p. 156.

At the time of the October 2012 Order, in a separate docket, the Commission was also considering PECO’s proposed Universal Services Three Year Plan for the 2013-2015 period (“Three Year Plan”), which included the Company’s plan for CAP customers for the period 2013-2015.<sup>1</sup> On January 3, 2013, the Commission issued a Secretarial Letter (the “Secretarial Letter”) in both the DSP II and Three Year Plan dockets underscoring the importance of the Commission entering a Final Order on PECO’s CAP in the Three Year Plan proceeding before a CAP shopping plan was submitted in PECO’s DSP II proceeding. To that end, the Commission directed the Company to file a CAP shopping plan on or around May 1, 2013, designed to allow CAP customers to shop by April 1, 2014 and subsequently approved PECO’s Three Year Plan on April 4, 2013.

In its Petition, PECO requests that the Commission approve the CAP Shopping Plan, including proposed changes to the Company’s Electric Tariff and Electric Generation Supplier Coordination Tariff (“Supplier Tariff”) to implement the Plan and achieve full and current recovery of Plan costs. PECO also requests that the Commission grant a waiver of the quarterly reconciliation provisions of the Commission’s regulations (52 Pa. Code §§ 54.187(i) and (j)), to the extent necessary, to allow the Company to implement an annual reconciliation of the

<sup>1</sup> *See PECO Energy Company Universal Service and Energy Conservation Plan for 2013-2015, Submitted in Compliance with 52 Pa. Code §§ 54.74 and 62.4, Docket No. M-2012-2290911 (Order entered April 4, 2013) (“2013 Universal Service Order”).*

over/under collection component of the Generation Supply Adjustment (“GSA”) for residential customers. Finally, PECO requests that the Commission approve a short delay in the commencement of the Plan from April 1, 2014 to April 15, 2014 to accommodate the Company’s existing integrated information technology (“IT”) programming and software deployment schedule.

The Petition was served on the Office of Consumer Advocate (“OCA”), the Office of Small Business Advocate (“OSBA”), the Commission’s Bureau of Investigation & Enforcement (“BI&E”), and all parties in PECO’s DSP II proceeding and the separate proceeding regarding PECO’s Three Year Plan at Docket No. M-2012-2290911.

## **II. STATEMENT OF ISSUES**

The issue before the Commission is whether PECO’s CAP Shopping Plan is in the public interest and is consistent with the October 2012 Order and the 2013 Universal Service Order. As set forth in the Petition and the direct testimony of Company witnesses included with the Petition, the CAP Shopping Plan reflects a balance of several design principles (the “CAP Shopping Design Principles”). These principles include:

- Ensuring the Plan is based upon the competitive shopping program that is in place for non-CAP customers;
- Maintaining consumer protections for CAP customers;
- Containing Plan costs for the residential customers who pay for CAP;
- Ensuring CAP shopping costs and benefits are clear and measurable; and
- Ensuring full and current recovery of Plan costs.

The foregoing design principles continue implementation of the universal service policies

set forth in the Electricity Generation Customer Choice and Competition Act, 66 Pa.C.S. § 2801 *et seq.* (the “Competition Act”) and the directives in the Commission’s more recent October 2012 Order and 2013 Universal Service Order. PECO believes that these principles provide a strong foundation for development of future retail market initiatives for CAP customers in PECO’s service territory, as well as any alternative CAP designs, and should be adopted as part of the Commission’s approval of the CAP Shopping Plan.

Under the Plan, customers enrolled in PECO’s CAP will be able to purchase electric generation supply from EGSs beginning April 15, 2014. PECO will continue its current CAP mechanism of applying a CAP discount to a CAP customer’s total bill using the tiered rate discount approach approved by the Commission in the 2013 Universal Service Order, except that the CAP discount will be applied to the EGS charges of CAP customers who shop instead of PECO’s default service charges (equal to the Price-to-Compare (“PTC”)). As part of the Plan, the Company also seeks to implement a variety of customer education initiatives for low income customers focused on the benefits of the competitive market, the promotion of shopping for electricity, and use of tools to help CAP customers understand and manage their energy bills.

EGSs who choose to serve CAP customers must submit a notice of intent to participate as a CAP supplier to PECO and will be required to charge CAP customers a rate for electricity supply that is at or below the PECO PTC for residential customers. Participating EGSs will be otherwise free to offer discounts or impose termination fees (although EGSs will be solely responsible for collecting any such fees). In addition, participating EGSs must use electric distribution company (“EDC”) consolidated billing for all shopping CAP customers.

To promote rate transparency and help simplify the shopping process for CAP customers, participating EGSs must publish their CAP rates on [PAPowerSwitch.com](http://PAPowerSwitch.com) and in a mailing to an

individual customer upon request of the customer. Participating EGSs must also provide the Commission and PECO periodic confidential reports on the number of CAP customers served and the rates charged in order to facilitate the measurement of benefits from shopping that are flowing to CAP customers.

Costs associated with customer education initiatives will continue to be recovered from all residential customers in the current Customer Education Charge approved by the Commission in Docket No. P-2011-2279773. For all remaining CAP Shopping Plan expenditures, PECO proposes to allocate costs between EGSs and residential customers (including shopping customers) in a manner generally consistent with the recovery mechanism approved by the Commission for the costs associated with the new Standard Offer Programs that will be offered by PECO and other EDCs. Specifically, PECO is proposing to recover 50% of the costs of the CAP Shopping Plan from EGSs by increasing the discount to EGS receivables purchased through PECO's Purchase of Receivables ("POR") program from 0.2% to 0.3% and the remaining 50% from residential customers, on a non-bypassable basis, through PECO's existing Universal Service Fund Charge ("USFC").

PECO is also proposing an annual reconciliation of the over or under collection component of the GSA for residential customers to replace the existing quarterly reconciliation mechanism. The intent of this proposal is to diminish potentially significant fluctuations in default service rates to help ensure that clearer pricing signals will be sent to both customers and EGSs, who will be required to keep prices at or below PECO's PTC for CAP customers.

### **III. WITNESSES**

As previously explained, on May 1, 2013, PECO submitted its Petition along with the testimony of the following witnesses:

- **Brian D. Crowe** - Mr. Crowe is Vice President of Energy Acquisition for PECO. Mr. Crowe's business address is 2301 Market Street, Philadelphia, PA, 19103 and his telephone number is (215) 841-4000. His testimony provides an overview of PECO's CAP, the CAP Shopping Plan and PECO's proposed litigation schedule, and describes the notice provided to customers.
- **John J. McCawley** - Mr. McCawley is Director of Energy Acquisition for PECO. Mr. McCawley's business address is 2301 Market Street, Philadelphia, PA, 19103 and his telephone number is (215) 841-4000. He describes the design of the CAP Shopping Plan and proposed changes to PECO's Supplier Tariff.
- **Alan B. Cohn** - Mr. Cohn is Manager of Regulatory Strategy for PECO. Mr. Cohn's business address is 2301 Market Street, Philadelphia, PA, 19103 and his telephone number is (215) 841-4000. Mr. Cohn discusses Plan costs, cost recovery and proposed changes in the Electric Tariff.

PECO may present additional witnesses in rebuttal to the direct testimony of other parties. However, such witnesses cannot be identified until other parties file their testimony and the issues raised in that testimony have been evaluated.

#### IV. DISCOVERY

On March 19, 2012, ALJ Dennis J. Buckley issued the Second Prehearing Order, attached as Exhibit "A" hereto, approving, *inter alia*, modifications to the Commission's discovery regulations for PECO's DSP II proceedings in this docket. The Second Prehearing Order also approved a Protective Order proposed in Appendix A of PECO's March 12, 2012 Prehearing Memorandum, a copy of which is attached as Exhibit "B" hereto. Consistent with the

expedited litigation schedule proposed for the CAP Shopping Plan, PECO proposes discovery modifications, attached as Exhibit “C” hereto, which are identical to those approved by ALJ Buckley with a revision approved in PECO’s Three Year Plan proceeding to reduce the period for discovery responses to seven days. PECO has conferred with the parties in this proceeding and no party has objected to the continued use of the Protective Order or the previously approved discovery procedures with a seven-day response period. Therefore, PECO respectfully requests that the ALJ confirm that the Protective Order will continue to apply and approve the proposed discovery modifications attached as Exhibit C.

**V. PROPOSED SCHEDULE**

PECO will cooperate with the ALJ and the other parties in order to facilitate the orderly conduct and disposition of this proceeding. To that end, PECO has consulted with the other parties in this proceeding, who have indicated that they find the following proposed schedule (initially set forth in the Petition) acceptable or do not otherwise object:

May 1, 2013	Petition Filing
May 28, 2013	Prehearing Conference
June 12, 2013	Other Parties Direct Testimony Due
June 26, 2013	Rebuttal Testimony Due
July 2, 2013	Surrebuttal Testimony Due
July 10-11, 2013	Hearings
July 26, 2013	Main Briefs
August 9, 2013	Reply Briefs
August 12, 2013	Certification of Record to the Commission

All proposed dates for submission of testimony and briefs are for “in-hand” delivery,

which may be satisfied by an e-mail or fax copy of the relevant documents.

## VI. POSSIBILITY OF SETTLEMENT

PECO intends to engage in settlement discussion with the other parties in this proceeding in order to facilitate an effective and timely implementation of the CAP Shopping Plan.

## VII. SERVICE LIST

Pursuant to 52 Pa. Code § 1.55, PECO hereby designates the following entry for the service list in this proceeding:

Anthony E. Gay, Esquire  
PECO Energy Company  
2301 Market Street  
P.O. Box 8699  
Philadelphia, PA 19103-2921  
Phone: 215.841.5974  
Fax: 215.841.3389  
E-mail: [Anthony.Gay@exeloncorp.com](mailto:Anthony.Gay@exeloncorp.com)

Parties are requested to also serve documents on the following attorneys as a courtesy:

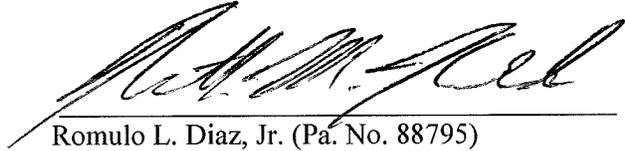
Romulo L. Diaz, Esquire  
PECO Energy Company  
2301 Market Street  
P.O. Box 8699  
Philadelphia, PA 19103-2921  
Phone: 215.841.5974  
Fax: 215.841.3389  
E-mail: [Romulo.Diaz@exeloncorp.com](mailto:Romulo.Diaz@exeloncorp.com)

Kenneth M. Kulak, Esquire  
Brooke E. McGlenn, Esquire  
Morgan, Lewis & Bockius LLP  
1701 Market Street  
Philadelphia, PA 19103-2921  
Phone: 215.963.5384  
Fax: 215.963.5001  
E-mail: [kkulak@morganlewis.com](mailto:kkulak@morganlewis.com)

**VIII. CONCLUSION**

**WHEREFORE**, PECO Energy Company respectfully submits this Prehearing Conference Memorandum.

Respectfully submitted,



Romulo L. Diaz, Jr. (Pa. No. 88795)  
Anthony E. Gay, Esquire (Pa. No. 74624)  
PECO Energy Company  
2301 Market Street  
P.O. Box 8699  
Philadelphia, PA 19101-8699  
Phone: 215.841.4635  
Fax: 215.568.3389  
E-mail: [Anthony.Gay@Exeloncorp.com](mailto:Anthony.Gay@Exeloncorp.com)

Kenneth M. Kulak, Esquire (Pa. No. 75509)  
Brooke E. McGlinn, Esquire (Pa. No. 204918)  
Morgan, Lewis & Bockius LLP  
1701 Market Street  
Philadelphia, PA 19103-2921  
Phone: 215.963.5384  
Fax: 215.963.5001  
E-mail: [kkulak@morganlewis.com](mailto:kkulak@morganlewis.com)

*For PECO Energy Company*

Dated: May 23, 2013

**EXHIBIT A**

**SECOND PREHEARING ORDER**

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

**SECOND PREHEARING ORDER**

In accordance with the provisions of 52 Pa. Code § 5.483, the purpose of this Order is to confirm certain agreements among the parties and related rulings made during the prehearing conference in this case on Tuesday, March 13, 2012. That hearing was convened to resolve any procedural issues raised to this point, to identify any discovery issues and to establish any modification of the Commission's discovery rules that may be appropriate in this matter, and to develop a procedural schedule.

As a result of the prehearing conference, the following points have been agreed upon:

A. PROCEDURAL SCHEDULE

The following schedule was agreed to by the parties:

March 16, 2012	PECO Supplemental Testimony
April 16, 2012	All Other Parties Direct Testimony Due
May 4, 2012	Rebuttal Testimony Due
May 17, 2012	Surrebuttal Testimony Due (by 2:00 p.m.)
May 21-24, 2012	Evidentiary Hearings (Harrisburg)
June 18, 2012	Main Briefs Due
July 3, 2012	Reply Briefs Due

With the exception of Surrebuttal Testimony (as noted, above), service on active parties and the Presiding Officer shall be by e-mail by 4:30 p.m. of the date due, consistent with this Order, followed up by delivery of a paper copy of the document USPS first-class mail.

Documents will be e-served in both pdf and WORD formats though voluminous documents of a technical nature may be served in pdf format, only.

B. PETITIONS TO INTERVENE

The Petitions to Intervene in this proceeding filed by the following Parties are granted: UGI Energy Services, Inc.; Coalition for Affordable Utility Services & Energy Efficiency (CAUSE- PA); Constellation NewEnergy, Inc. and Constellation Energy Commodities Group, Inc.; FirstEnergy Solutions; Dominion Retail d/b/a Dominion Energy Solutions & Interstate Gas Supply, Inc. (IGS); Tenant Union Representative Network and Action Alliance of Senior Citizens of Greater Philadelphia (TURN, et al.); Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, and West Penn Power Company (Met-Ed, Penelec, Penn Power, West Penn); Noble Americas Energy Solutions LLC; ChoosePAWind; Philadelphia Area Industrial Energy Users Group (PAIEUG); Retail Energy Suppliers Association (RESA); Direct Energy Services (Direct Energy); PPL Energy Plus LLC; NextEra Energy Services Pennsylvania, LLC and NextEra Energy Power Marketing, LLC; Green Mountain Energy Company (GMEC); Washington Gas Energy Services, Inc.; Exelon Generation Company, LLC and Exelon Energy Company.

C. MOTION FOR ADMISSION OF COUNSEL PRO HAC VICE

The Motion for Admission *pro hac vice* of Thomas McCann Mullooly, Esquire, and Trevor D. Stiles Esquire, is granted.

D. REVISED RULES/SERVICE AND DISCOVERY

The Commission's regulations regarding service at 52 Pa. Code § 1.54 are modified as follows:

a. Answers to written interrogatories are to be served in-hand within ten (10) calendar days of service of the interrogatories.

b. Objections to interrogatories are to be communicated orally within three (3) days of service; unresolved objections are to be served on the ALJ in writing within five (5) days of service of the interrogatories.

c. Motions to dismiss objections and/or direct the answering of interrogatories are to be filed within three calendar (3) days of service of written objections.

d. Answers to motions to dismiss objections and/or directing the answer of interrogatories shall be filed within three (3) calendar days of service of such motions.

e. Responses to request for document production, entry for inspection, or other purposes are to be served, in-hand, within ten (10) calendar days.

f. Requests for admission are deemed admitted unless answered within ten (10) calendar days or objected to within five (5) calendar days of service.

g. When an interrogatory, request for production, request for admission or motion is served after 12:00 p.m. on a Friday or the day before a holiday, the appropriate response period is deemed to start on the next business day.

h. Interrogatories, requests for production and requests for admissions that are objected to but which are not made the subject of a motion to compel will be deemed withdrawn.

i. Pursuant to 52 Pa. Code § 5.341(b), neither discovery requests nor responses thereto are to be served on the Commission or on the ALJ, although a certificate of service may be filed with the Commission's Secretary.

j. Discovery requests, motions to compel and responses are to be served electronically as well as on paper.

E. PUBLIC INPUT HEARING

No public input hearing has been requested in this matter.

F. ALJ's E-SERVICE LIST

The following have been designated to receive all documents from the Presiding Officer:

Kenneth M. Kulak, Esq. <a href="mailto:kkulak@morganlewis.com">kkulak@morganlewis.com</a>	PECO
Jeanne Dworetzky, Esq. <a href="mailto:jeanne.dworetzky@exeloncorp.com">jeanne.dworetzky@exeloncorp.com</a>	PECO
Anthony Gay, Esq. <a href="mailto:anthony.gay@exeloncorp.com">anthony.gay@exeloncorp.com</a>	PECO
Melanie J. Elatieh, Esq. <a href="mailto:ELATIEHM@UGICORP.COM">ELATIEHM@UGICORP.COM</a>	UGI Energy Services, Inc.
Patrick Cicero, Esq. <a href="mailto:pulp@palegalaid.net">pulp@palegalaid.net</a>	Coalition for Affordable Utility Services & Energy Efficiency (CAUSE-PA)
Candis A. Tunilo, Esq. <a href="mailto:ctunilo@paoca.org">ctunilo@paoca.org</a>	Office of Consumer Advocate
Christie M. Appleby, Esq. <a href="mailto:cappleby@paoca.org">cappleby@paoca.org</a>	OCA

Carrie Wright, Esq. <a href="mailto:carwright@state.pa.us">carwright@state.pa.us</a>	Bureau of Investigations and Enforcement
Elizabeth Rose Triscari, Esq. <a href="mailto:etriscari@pa.gov">etriscari@pa.gov</a>	Office of Small Business Advocate
Divesh Gupta, Esq. <a href="mailto:divesh.gupta@costellation.com">divesh.gupta@costellation.com</a>	Constellation New Energy
Amy Klodowski, Esq. <a href="mailto:aklodow@firstenergycorp.com">aklodow@firstenergycorp.com</a>	FirstEnergy Solutions
Brian Knipe, Esq. <a href="mailto:Brian.knipe@bipc.com">Brian.knipe@bipc.com</a>	FirstEnergy Solutions
Todd Stewart, Esq. <a href="mailto:tsstewart@hmslegal.com">tsstewart@hmslegal.com</a>	Dominion Retail & IGS
Thu Tran, Esq. <a href="mailto:ttran@clsphila.org">ttran@clsphila.org</a>	Tenant Union Representative Network and Action Alliance of Senior Citizens of Greater Philadelphia (TURN, et al.)
Tori Giesler, Esq. <a href="mailto:tgiesler@firstenergycorp.com">tgiesler@firstenergycorp.com</a>	Met-Ed, Penelec, Penn Power, West Penn
Charles E. Thomas III, Esq. <a href="mailto:Cet3@thomaslonglaw.com">Cet3@thomaslonglaw.com</a>	Noble Americas Energy Solutions LLC
Adeolu A. Bakare, Esq. <a href="mailto:abakare@mwn.com">abakare@mwn.com</a>	Philadelphia Area Industrial Energy Users Group (PAIEUG)
Charis Mincavage, Esq. <a href="mailto:cmincavage@mwn.com">cmincavage@mwn.com</a>	PAIEUG
Daniel Clearfield, Esq. <a href="mailto:dclearfield@eckertseamans.com">dclearfield@eckertseamans.com</a>	Retail Energy Suppliers Association (RESA) Direct Energy
Edward Lanza, Esq. <a href="mailto:elanza@eckertseamans.com">elanza@eckertseamans.com</a>	RESA/Direct Energy
Andrew S. Tubbs, Esq. <a href="mailto:atubbs@postschell.com">atubbs@postschell.com</a>	PPL Energy Plus
Stephen Huntoon, Esq. <a href="mailto:shuntoon@nexteraenergy.com">shuntoon@nexteraenergy.com</a>	NextEra Energy services

Jeffrey Norton, Esq.  
[jnorton@eckertseamans.com](mailto:jnorton@eckertseamans.com)

Green Mountain Energy  
ChoosePAWind

Scott H. DeBroff, Esq.  
[sdebroyff@rhoads-sinon.com](mailto:sdebroyff@rhoads-sinon.com)

Washington Gas Energy Services, Inc.

Trevor D. Stiles, Esq.  
[tstiles@foley.com](mailto:tstiles@foley.com)

Exelon Generation Company, LLC and  
and Exelon Energy Company

G. PROTECTIVE ORDER

The Proposed Protective Order attached to PECO's Prehearing Memorandum as Appendix A is approved.

THEREFORE,

IT IS ORDERED:

1. That the procedural schedule set forth in Part A of this Order is adopted.
2. That the Petitions to Intervene in this proceeding filed by the Parties listed in Part B of this Order are granted.
3. That the Motion for Admission *pro hac vice* of Thomas McCann Mullooly, Esquire, and Trevor D. Stiles Esquire, is granted.
4. That the revised rules of service and discovery set forth in Part D of this Order are adopted.
5. That following individuals are designated to receive service of documents from the Presiding Officer for themselves or for their respective clients consistent with the provisions of this Order:

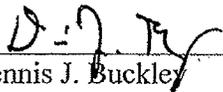
Kenneth M. Kulak, Esq. <a href="mailto:kkulak@morganlewis.com">kkulak@morganlewis.com</a>	PECO
Jeanne Dworetzky, Esq. <a href="mailto:jeanne.dwortezky@exeloncorp.com">jeanne.dwortezky@exeloncorp.com</a>	PECO
Anthony Gay, Esq. <a href="mailto:anthony.gay@exeloncorp.com">anthony.gay@exeloncorp.com</a>	PECO
Melanie J. Elatieh, Esq. <a href="mailto:ELATIEHM@UGICORP.COM">ELATIEHM@UGICORP.COM</a>	UGI Energy Services, Inc.
Patrick Cicero, Esq. <a href="mailto:pulp@palegalaid.net">pulp@palegalaid.net</a>	Coalition for Affordable Utility Services & Energy Efficiency (CAUSE-PA)
Candis A. Tunilo, Esq. <a href="mailto:ctunilo@paoca.org">ctunilo@paoca.org</a>	Office of Consumer Advocate
Christie M. Appleby, Esq. <a href="mailto:cappleby@paoca.org">cappleby@paoca.org</a>	OCA
Carrie Wright, Esq. <a href="mailto:carwright@state.pa.us">carwright@state.pa.us</a>	Bureau of Investigations and Enforcement
Elizabeth Rose Triscari, Esq. <a href="mailto:etriscari@pa.gov">etriscari@pa.gov</a>	Office of Small Business Advocate
Divesh Gupta, Esq. <a href="mailto:divesh.gupta@costellation.com">divesh.gupta@costellation.com</a>	Constellation New Energy
Amy Klodowski, Esq. <a href="mailto:aklodow@firstenergycorp.com">aklodow@firstenergycorp.com</a>	FirstEnergy Solutions
Brian Knipe, Esq. <a href="mailto:Brian.knipe@bipc.com">Brian.knipe@bipc.com</a>	FirstEnergy Solutions
Todd Stewart, Esq. <a href="mailto:tsstewart@hmslegal.com">tsstewart@hmslegal.com</a>	Dominion Retail & IGS
Thu Tran, Esq. <a href="mailto:ttran@clsphila.org">ttran@clsphila.org</a>	Tenant Union Representative Network and Action Alliance of Senior Citizens of Greater Philadelphia (TURN, et al.)
Tori Giesler, Esq. <a href="mailto:tgiesler@firstenergycorp.com">tgiesler@firstenergycorp.com</a>	Met-Ed, Penelec, Penn Power, West Penn

Charles E. Thomas III, Esq. <a href="mailto:Cet3@thomaslonglaw.com">Cet3@thomaslonglaw.com</a>	Noble Americas Energy Solutions LLC
Adeolu A. Bakare, Esq. <a href="mailto:abakare@mwn.com">abakare@mwn.com</a>	Philadelphia Area Industrial Energy Users Group (PAIEUG)
Charis Mincavage, Esq. <a href="mailto:cmincavage@mwn.com">cmincavage@mwn.com</a>	PAIEUG
Daniel Clearfield, Esq. <a href="mailto:dclearfield@eckertseamans.com">dclearfield@eckertseamans.com</a>	Retail Energy Suppliers Association (RESA) Direct Energy
Edward Lanza, Esq. <a href="mailto:elanza@eckertseamans.com">elanza@eckertseamans.com</a>	RESA/Direct Energy
Andrew S. Tubbs, Esq. <a href="mailto:atubbs@postschell.com">atubbs@postschell.com</a>	PPL Energy Plus
Stephen Huntoon, Esq. <a href="mailto:shuntoon@nexteraenergy.com">shuntoon@nexteraenergy.com</a>	NextEra Energy services
Jeffrey Norton, Esq. <a href="mailto:jnorton@eckertseamans.com">jnorton@eckertseamans.com</a>	Green Mountain Energy ChoosePAWind
Scott H. DeBroff, Esq. <a href="mailto:sdebroyff@rhoads-sinon.com">sdebroyff@rhoads-sinon.com</a>	Washington Gas Energy Services, Inc.
Trevor D. Stiles, Esq. <a href="mailto:tstiles@foley.com">tstiles@foley.com</a>	Exelon Generation Company, LLC and and Exelon Energy Company

6. That the proposed Protective Order attached to PECO's Prehearing Memorandum as Appendix A is approved.

7. That a formal hearing in this matter shall be scheduled for May 21, 2012, at 1:00 p.m. and on May 22-24, 2012, at 10:00 a.m. in Harrisburg, Pennsylvania.

Date: March 19, 2012

  
 \_\_\_\_\_  
 Dennis J. Buckley  
 Administrative Law Judge

**EXHIBIT B**

**PECO'S MARCH 12, 2012 PREHEARING CONFERENCE MEMORANDUM**

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

---

**PREHEARING CONFERENCE MEMORANDUM OF  
PECO ENERGY COMPANY**

---

**TO ADMINISTRATIVE LAW JUDGE DENNIS J. BUCKLEY:**

Pursuant to the March 6, 2012 Prehearing Order issued by Administrative Law Judge Dennis J. Buckley (the "ALJ") and the Pennsylvania Public Utility Commission's ("Commission") regulations at 52 Pa. Code § 5.222(d), PECO Energy Company ("PECO" or the "Company") hereby submits its Prehearing Conference Memorandum in the above-captioned proceeding.

**I. PROCEDURAL HISTORY**

On January 13, 2012, PECO filed the above-captioned petition (the "Petition") requesting that the Commission approve its second Default Service Program ("DSP II"), which is designed to ensure that its default service customers have access to an adequate and reliable supply of generation at the least cost over time. PECO currently provides default service pursuant to its Commission-approved default service plan that will expire on May 31, 2013 ("DSP I").<sup>1</sup>

The Petition requests that the Commission approve the proposed DSP II, including

<sup>1</sup> See *Petition of PECO Energy for Approval of Its Default Service Program and Rate Mitigation Plan*, Docket No. P-2008-2062739 (Order entered June 2, 2009) ("DSP I Order").

PECO's procurement plan, contingency plans, and tariff changes to its existing default service rate design for default supply service for the period June 1, 2013 through May 31, 2015, as well as certain retail market enhancements, including its Opt-In Electric Generation Supplier ("EGS") Offer Program and Customer Referral Programs. PECO also requests that the Commission specifically find, pursuant to 66 Pa.C.S. § 2807(e)(3.7), that: (1) DSP II includes prudent steps necessary to negotiate favorable generation supply contracts; (2) DSP II includes prudent steps necessary to obtain least cost generation supply on a long-term, short-term and spot market basis; and (3) neither PECO nor its affiliates have withheld from the market any generation supply in a manner that violates federal law. In addition, PECO requests that the Commission affirm PECO's right to recover all of its default service costs in accordance with 66 Pa.C.S. § 2807(3.9) and approve PECO's proposed revised supply master agreement and opt-in and referral program agreements with EGSs as affiliated interest agreements under 66 Pa.C.S. § 2102.

The Petition was served on the Office of Consumer Advocate ("OCA"), the Office of Small Business Advocate ("OSBA"), the Bureau of Investigation & Enforcement ("BI&E"), and counsel to the Pennsylvania-New Jersey-Maryland Interconnection LLC ("PJM"), as well as all of the electric generation suppliers ("EGSs") registered in PECO's certificated service territory. As of this date, Answers to PECO's Petition have been submitted by the OSBA on February 2, 2012 and the OCA and the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania ("CAUSE-PA") on February 13, 2012. A Notice of Appearance was filed by I&E on February 7, 2012.

In addition, the following parties filed Petitions to Intervene:

OSBA	February 2, 2012
UGI Energy Services, Inc. d/b/a UGI EnergyLink ("UGIES")	February 7, 2012

Dominion Retail, Inc. d/b/a Dominion Energy Solution (“DES”) & Interstate Gas Supply, Inc. d/b/a IGS Energy (“IGS”)	February 8, 2012
NextEra Energy Services, Pennsylvania, LLC and NextEra Power Marketing, LLC (“NextEra Entities”)	February 10, 2012
Metropolitan Edison Company (“Met-Ed”), Pennsylvania Electric Company (“Penelec”), Pennsylvania Power Company (“Penn Power”), & West Penn Power Company (“West Penn”) (collectively, “FirstEnergy Utilities”)	February 10, 2012
Tenant Union Representative Network & Action Alliance of Senior Citizens of Greater Philadelphia (collectively, “TURN, et al.”)	February 13, 2012
Retail Energy Supply Association (“RESA”)	February 13, 2012
Philadelphia Area Industrial Energy Users Group (“PAIEUG”)	February 13, 2012
OCA	February 13, 2012
Green Mountain Energy Company (“GMEC”)	February 13, 2012
Direct Energy Services, LLC (“Direct Energy”)	February 13, 2012
ChoosePA Wind.com (“ChoosePA Wind”)	February 13, 2012
CAUSE-PA	February 13, 2012
FirstEnergy Solutions Corp. (“FES”)	February 13, 2012
Exelon Generation Company, LLC and Exelon Energy Company (“ExGen”)	February 13, 2012
Noble Americas Energy Solutions LLC (“Noble”)	February 13, 2012
PPL EnergyPlus, LLC (“PPL EnergyPlus”)	February 14, 2012
Washington Gas Energy Services, Inc. (“WGES”) (filed a Petition to Intervene <i>Nunc Pro Tunc</i> )	February 17, 2012

On February 13, 2012, ExGen filed a Motion for Admission *Pro Hac Vice* of Thomas McCann Mullooly and Trevor D. Stiles.

On March 8, 2012, Constellation NewEnergy, Inc. and Constellation Energy Commodities Group, Inc. filed a Petition to Intervene Out-of-Time.

## II. STATEMENT OF ISSUES

The issue before the Commission is whether DSP II is in the public interest and is consistent with the Electricity Generation Customer Choice and Competition Act, 66 Pa.C.S. § 2801, *et seq.* (the “Competition Act”), as amended by Act 129 of 2008 (“Act 129”), the Commission’s default service regulations at 52 Pa. Code §§ 54.181-54.189 (“Regulations”), and the Commission’s Policy Statement on Default Service at 52 Pa. Code §§ 69.1801-1817 (“Policy Statement”).<sup>2</sup> The principal components of DSP II are described below.

### A. Default Service Procurement Class And Supply Portfolio Design

PECO has proposed the same four procurement classes as DSP I: Residential, Small Commercial, Medium Commercial, and Large Commercial and Industrial and has requested a waiver, to the extent necessary, from Sections 54.187(h)-(j) of the Commission’s Regulations in order to continue to use the proposed classes. While the default service product specifications are customized for each procurement class, the generation supply for the Residential, Small Commercial and Medium Commercial classes will consist of full service, load-following energy and energy-related products. With respect to the Residential class, PECO does not propose further procurement of block energy products. Instead, PECO proposes to create additional tranches of load supplied by full-requirements products as its DSP I block energy terms expire.

<sup>2</sup> See *Implementation of Act 129 of October 15, 2008; Default Service and Retail Electric Markets*, Final Rulemaking Order, Docket No. L-2009-2095604 (Order entered October 4, 2011); *Proposed Policy Statement Regarding Default Service and Retail Electric Markets*, Final Policy Statement, Docket No. M-2009-2140580 (Order entered on September 22, 2011) (“*Second Default Service Policy Statement*”). The *Second Default Service Policy Statement* was published in the *Pennsylvania Bulletin* on February 25, 2012.

The generation supply for the Large Commercial and Industrial class will be procured by PECO directly from PJM energy markets.

**B. Competitive Bid Solicitation Process And Contingency Plans**

PECO proposes to procure its full-requirements default service products through a fair, non-discriminatory, and competitive request for proposals (“RFP”) process conducted by an independent third-party evaluator. PECO also proposes that NERA Economic Consulting, Inc. (“NERA”) serve as the independent third-party evaluator for PECO’s default supply solicitations, as it has done in DSP I. Finally, PECO proposes contingency plans to cover supply deficiencies resulting from either a supplier default or the receipt of insufficient bids to fill its competitive solicitations.

**C. Alternative Energy Portfolio Standards Act Requirements**

PECO proposes to continue to satisfy most of its requirements under the Alternative Energy Portfolio Standards (“AEPS”) Act, 73 P.S. § 1648.1, *et seq.*, by requiring each full-requirements default service supplier to transfer Tier I and Tier II alternative energy credits (“AECs”) to PECO corresponding to PECO’s AEPS obligations associated with the amount of default service load served by that supplier. PECO proposes to continue to allocate AECs obtained through its prior AEPS procurements towards suppliers’ AEPS obligations under the supply master agreement (“SMA”) in accordance with the percentage of load served by each supplier. PECO will retain a percentage of the AECs it has procured to meet the AEPS requirements associated with Large Commercial and Industrial class load and the remaining portion of PECO’s share of the Residential class load under DSP I.

#### **D. Rate Design And Tariff Changes**

PECO proposes to recover default service costs through its Generation Supply Adjustment (“GSA”) mechanism. PECO will continue to adjust the cost of generation supply on a quarterly basis for customers with load requirements up to 500 kW, but is proposing an annual reconciliation of the over or under collection component of the GSA for Residential, Small Commercial and Medium Commercial customers to replace the existing quarterly reconciliation mechanism.

PECO is also proposing to collect all of its AEPS-related costs in the GSA. Currently, the Company recovers the cost of compliance with its obligations under the AEPS Act through both the GSA (in the costs paid to each full-requirements supplier for AECs transferred to PECO) and an AEPS Surcharge approved by the Commission for PECO’s separate procurements of Tier I solar and non-solar AECs.<sup>3</sup> Going forward, the Company proposes to include all of its AEPS compliance costs in the GSA and to eliminate the AEPS Surcharge from its tariff.

In addition to the foregoing, and consistent with prior Commission approvals, PECO is eliminating several expiring rate provisions from its tariff, including declining blocks and the Wind Energy Service Rider. Finally, PECO is proposing tariff changes relating to PJM auction revenue rights and cost recovery of PECO’s proposed retail market enhancements.

#### **E. Opt-In EGS Offer Program, Standard Offer Program, And New/Moving Customer Referral**

In its DSP II filing, PECO proposed an “opt-in” program in which EGSs bid to provide competitive retail electric service offers to PECO’s default service residential customers, and two

<sup>3</sup> See *Petition of PECO Energy Co. for Approval to Procure Solar Alternative Energy Credits*, Docket No. P-2009-2094494 (Order entered August 28, 2009); *Petition of PECO Energy Co. for Approval of (1) A Process to Procure Alternative Energy Credits During the AEPS Banking Period and (2) A Section 1307 Surcharge and Tariff to Recover AEPS Credits*, Docket No. P-00072260 (Order entered December 26, 2007).

customer referral programs – a “Supplier of the Month” program in which EGSs compete to present monthly offers to default service residential customers and a program to encourage new and moving customers to select an EGS for generation supply. PECO is in the process of revising its proposals for these programs in light of new guidance from the Commission in its March 2, 2012 Order on an intermediate work plan in its *Investigation of Pennsylvania’s Retail Electricity Market* proceedings.<sup>4</sup> At this time, PECO anticipates the following revisions:

***Opt-in Program.*** Participating EGSs will be required to offer a six-month product that is at least five percent less than PECO’s projected Price-to-Compare for June 1, 2013, instead of a 12-month product. The EGS offer may include a \$50 bonus payment to customers which shall be paid after offer acceptance and the completion of three billing cycles with electric generation service provided by the selected EGS. One hundred percent of PECO’s non-shopping, residential customers will be eligible to opt-in to this program for assignment to EGSs (excluding customers participating in PECO’s Customer Assistance Program), subject to a total participation limit of fifty percent of all such customers.

***Standard Offer Program.*** Instead of a “Supplier of the Month” program, PECO will offer a program in which customers may select a participating EGS of their choice or be randomly assigned to a participating EGS. Participating EGSs will be required to offer standard terms and conditions based on a twelve-month product priced at seven percent less than PECO’s Price-to-Compare in effect at the time of customer enrollment. EGS participation is voluntary, and the list of participating EGSs will be updated on a monthly basis.

***New/Moving Customer Referral.*** PECO originally proposed a New/Moving Customer Referral Program for residential customers, with revised and enhanced call center scripts to

<sup>4</sup> See *Investigation of Pennsylvania’s Retail Electricity Market: Intermediate Work Plan*, Final Order, Docket No. I-2011-2237952 (Order entered March 2, 2012) (“*Intermediate Work Plan Order*”).

promote shopping and PAPowerSwitch.com and an updated “New/Mover” kit for use by the end of 2012. In the *Intermediate Work Plan Order*, the Commission directed the Office of Competitive Market Oversight to establish a working group comprised of electric distribution companies and other interested parties to develop appropriate call center scripts by the second quarter of 2012, with implementation no later than the fourth quarter of 2012. PECO intends to participate in the new working group to develop scripts for use in its call center by the end of 2012, and will also implement systems to transfer a customer caller to an EGS’ telephone number after completing steps required for initiation of distribution service for the customer.

In order to permit other parties to consider PECO’s revised programs and address the revised programs in their direct testimony, PECO proposes to file limited supplemental direct testimony describing the program revisions on March 16, 2012.

**F. Affiliate Relations**

PECO requests that the Commission approve the *pro forma* SMA and the EGS agreements associated with the Opt-In EGS Offer Program and Standard Customer Referral Program (submitted along with PECO’s direct testimony) as affiliated interest agreements as required under 66 Pa.C.S. §§ 2102 and 2807(e)(3.1). The Commission’s Regulations and Policy Statement permit affiliates of default service suppliers to participate in competitive procurements. Because PECO’s affiliates may participate in the proposed procurements, advance approval of the *pro forma* SMA and EGS agreements as affiliated interest agreements is appropriate.

### III. WITNESSES

As previously explained, on January 13, 2012, PECO submitted its Petition along with the testimony of the following witnesses:

- **Brian D. Crowe** - Mr. Crowe is Vice President, Energy Acquisition, for PECO. Mr. Crowe's business address is 2301 Market Street, Philadelphia, PA, 19103 and his telephone number is (215) 841-4141. His testimony provides an overview of PECO's DSP II and describes the notice provided to customers.
- **John J. McCawley** - Mr. McCawley is Director of Energy Acquisition for PECO. Mr. McCawley's business address is 2301 Market Street, Philadelphia, PA, 19103 and his telephone number is (215) 841-4141. He describes PECO's proposed default service procurement, implementation, and contingency plans for DSP II, and additional proposed initiatives to enhance retail competition.
- **Scott G. Fisher** - Mr. Fisher is a Principal of the NorthBridge Group, an economic consulting firm. Mr. Fisher's business address is 30 Monument Square, Suite 105, Concord, MA, 01742 and his telephone number is (781) 266-2646. Mr. Fisher provides an expert evaluation of PECO's proposed procurement plan, as well as a review of "lessons learned" under DSP I, which includes a quantitative analysis of the prices obtained in PECO's DSP I default service supply solicitations.

- **Dr. Chantale LaCasse** - Dr. LaCasse is a Senior Vice President of NERA. Dr. LaCasse's business address is 1255 23rd St. N.W., Washington, D.C., 20037 and her telephone number is (202) 466-9218. Dr. LaCasse testifies regarding the procedures for PECO's procurements and proposed changes in DSP II, as well as the role and responsibilities of NERA as proposed independent evaluator.
- **Alan B. Cohn** - Mr. Cohn is Manager, Revenue Analysis, Retail Rates, for PECO. Mr. Cohn's business address is 2301 Market Street, Philadelphia, PA, 19103 and his telephone number is (215) 841-4141. Mr. Cohn describes PECO's existing GSA, proposed revisions to default service cost recovery, and other tariff changes.

As noted previously, PECO intends to submit supplemental direct testimony on March 16, 2012 to address the Commission's *Intermediate Work Plan Order*. In addition, PECO may present additional witnesses in rebuttal of the direct testimony of other parties. However, such witnesses cannot be identified until other parties file their testimony and the issues raised in that testimony have been evaluated.

#### IV. DISCOVERY

To date, PECO has been served with 54 interrogatories, including numerous subparts. PECO will work with the other parties and the ALJ to develop a reasonable schedule for ongoing discovery. In addition, PECO proposes that the ALJ approve the Protective Order attached hereto as Appendix "A".

## V. SERVICE LIST

Pursuant to 52 Pa. Code § 1.55, PECO hereby designates the following entry for the service list in this proceeding:

Kenneth M. Kulak, Esquire  
Morgan, Lewis & Bockius LLP  
1701 Market Street  
Philadelphia, PA 19103-2921  
Phone: 215.963.5384  
Fax: 215.963.5001  
E-mail: [kkulak@morganlewis.com](mailto:kkulak@morganlewis.com)

## VI. PROPOSED SCHEDULE

PECO will cooperate with the ALJ and other parties in order to facilitate the orderly conduct and disposition of this proceeding. To that end, the Company proposed a schedule in its Petition, for this proceeding, but has revised that schedule in light of the January 26, 2012 Prehearing Conference Notice and subsequent discussions with the parties. In accordance with the nine-month period for approval of a default service plan under Section 2807(e)(3.6) of the Public Utility Code, PECO now proposes the following schedule:

January 13, 2012	Petition Filing
March 13, 2012	Prehearing Conference
March 16, 2012	PECO Supplemental Testimony
April 16, 2012	Other Parties Direct Testimony Due
May 8, 2012	Rebuttal Testimony Due
May 17, 2012	Surrebuttal Testimony Due (by 12:00 pm)
May 22-24, 2012	Hearings
June 18, 2012	Main Briefs
July 3, 2012	Reply Briefs

August 7, 2012	Recommended Decision
August 28, 2012	Exceptions
September 11, 2012	Reply Exceptions
October 11, 2012	Commission Order

All proposed dates for submission of testimony and briefs are for “in-hand” delivery, which may be satisfied by an e-mail or fax copy of the relevant documents. It is the Company’s understanding that the above schedule is acceptable to the OCA, OSBA, and I&E, provided that a telephonic conference for the sole purpose of the cross-examination of an OCA witness is conducted on May 21 due to a scheduling conflict of that witness and hearings commencing on May 22. PECO does not oppose this request.

**VII. CONCLUSION**

**WHEREFORE**, PECO Energy Company respectfully submits this Prehearing Conference Memorandum.

Respectfully submitted,



---

Anthony E. Gay, Esquire (Pa. No. 74624)  
Jeanne J. Dworetzky, Esquire (Pa. No. 62389)  
PECO Energy Company  
2301 Market Street  
P.O. Box 8699  
Philadelphia, PA 19101-8699  
Phone: 215.841.4635  
Fax: 215.568.3389  
E-mail: [Jeanne.Dworetzky@Exeloncorp.com](mailto:Jeanne.Dworetzky@Exeloncorp.com)

Thomas P. Gadsden, Esquire (Pa. No. 28478)  
Kenneth M. Kulak, Esquire (Pa. No. 75509)  
Brooke E. Leach, Esquire (Pa. No. 204918)  
Morgan, Lewis & Bockius LLP  
1701 Market Street  
Philadelphia, PA 19103-2921  
Phone: 215.963.5234  
Fax: 215.963.5001  
E-mail: [tgadsden@morganlewis.com](mailto:tgadsden@morganlewis.com)

*For PECO Energy Company*

Dated: March 12, 2012

**APPENDIX A**

**PROPOSED PROTECTIVE ORDER**

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

**PROTECTIVE ORDER**

**IT IS ORDERED THAT:**

1. This Protective Order is hereby GRANTED and shall establish procedures for the protection of all materials and information identified in Paragraphs 2 and 3 below, which are or will be filed with the Commission, produced in discovery, or otherwise presented during the above-captioned proceeding and all proceedings consolidated with it. All persons now or hereafter granted access to the materials and information identified in Paragraph 2 of this Protective Order shall use and disclose such information only in accordance with this Order.

2. The information subject to this Protective Order is all correspondence, documents, data, information, studies, methodologies and other materials, whether produced or reproduced or stored on paper, cards, tape, disk, film, electronic facsimile, magnetic or optical memory, computer storage devices or any other devices or media, including, but not limited to, electronic mail (e-mail), furnished in this proceeding that the producing party believes to be of a proprietary or confidential nature and are so designated by being stamped "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL" protected material. Such materials are referred to in this Order as "Proprietary Information." When a statement or exhibit is identified for the record, the portions thereof that constitute Proprietary Information shall be designated as such for the record.

3. For purposes of this Protective Order there are two categories of Proprietary Information: “CONFIDENTIAL” and “HIGHLY CONFIDENTIAL” protected material. A producing party may designate as “CONFIDENTIAL” those materials that are customarily treated by that party as sensitive or proprietary, that are not available to the public, and that, if generally disclosed, would subject that party or its clients to the risk of competitive disadvantage or other business injury. A producing party may designate as “HIGHLY CONFIDENTIAL” those materials that are of such a commercially sensitive nature, relative to the business interests of parties to this proceeding, or of such a private or personal nature, that the producing party determined that a heightened level of confidential protection with respect to those materials is appropriate. The parties shall endeavor to limit the information designated as “HIGHLY CONFIDENTIAL” protected material.

4. Subject to the terms of this Protective Order, Proprietary Information shall be provided to counsel for a party who meets the criteria of a “Reviewing Representative” as set forth below. Such counsel shall use or disclose the Proprietary Information only for purposes of preparing or presenting evidence, testimony, cross examination or argument in this proceeding. To the extent required for participation in this proceeding, such counsel may allow others to have access to Proprietary Information only in accordance with the conditions and limitations set forth in this Protective Order.

5. Information deemed “CONFIDENTIAL” shall be provided to a “Reviewing Representative.” For purposes of “CONFIDENTIAL” Proprietary Information, a “Reviewing Representative” is a person who has signed a Non-Disclosure Certificate and is:

- i. A statutory advocate, or an attorney for a statutory advocate pursuant to 52 Pa. Code § 1.8 or an attorney who has formally entered an appearance in this proceeding on behalf of a party;
- ii. An attorney, paralegal, or other employee associated for purposes of this case with an attorney described in subparagraph (i) above;
- iii. An expert or an employee of an expert retained by a party for the purpose of advising that party or testifying in this proceeding on behalf of that party; or
- iv. Employees or other representatives of a party to this proceeding who have significant responsibility for developing or presenting the party's positions in this docket.

6. Information deemed "HIGHLY CONFIDENTIAL" protected material shall be provided to a Reviewing Representative, provided, however that a Reviewing Representative, for purposes of "HIGHLY CONFIDENTIAL" protected material, is limited to a person who has signed a Non-Disclosure Certificate and is:

- i. A statutory advocate, or an attorney for a statutory advocate, pursuant to 52 Pa. Code § 1.8 or an attorney who has formally entered an appearance in this proceeding on behalf of a party;
- ii. An attorney, paralegal, or other employee associated for purposes of this case with an attorney described in subparagraph (i);
- iii. An outside expert or an employee of an outside expert retained by a party for the purposes of advising that party or testifying in this proceeding on behalf of that party; or
- iv. A person designated as a Reviewing Representative for purposes of HIGHLY CONFIDENTIAL protected material pursuant to paragraph 11.

Provided, further, that in accordance with the provisions of Sections 5.362 and 5.431(e) of the Commission's Rules of Practice and Procedure (52 Pa. Code §§ 5.362, 5.431(e)) any party may, by objection or motion, seek further protection with respect to HIGHLY CONFIDENTIAL protected material, including, but not limited to, total prohibition of disclosure or limitation of disclosure only to particular parties.

7. For purposes of this Protective Order, a Reviewing Representative may not be a “Restricted Person” absent agreement of the party producing the Proprietary Information pursuant to Paragraph 11. A “Restricted Person” shall mean: (a) an officer, director, stockholder, partner, or owner of any competitor of the parties or an employee of such an entity if the employee’s duties involve marketing or pricing of the competitor’s products or services or advising another person who has such duties; (b) an officer, director, stockholder, partner, or owner of any affiliate of a competitor of the parties (including any association of competitors of the parties) or an employee of such an entity if the employee’s duties involve marketing or pricing of the competitor’s products or services or advising another person who has such duties; (c) an officer, director, stockholder, owner, agent (excluding any person under Paragraph 6.i or 6.ii), or employee of a competitor of a customer of the parties or of a competitor of a vendor of the parties if the Proprietary Information concerns a specific, identifiable customer or vendor of the parties; and (d) an officer, director, stockholder, owner or employee of an affiliate of a competitor of a customer of the parties if the Proprietary Information concerns a specific, identifiable customer of the parties; provided, however, that no expert shall be disqualified on account of being a stockholder, partner, or owner unless that expert’s interest in the business would provide a significant motive for violating the limitations of permissible use of the Proprietary Information. For purposes of this Protective Order, stocks, partnership or other ownership interests valued at more than \$10,000 or constituting more than a 1% interest in a business establish a significant motive for violation.

8. If an expert for a party, another member of the expert’s firm or the expert’s firm generally also serves as an expert for, or as a consultant or advisor to, a Restricted Person, that expert must: (1) identify for the parties each Restricted Person and all personnel in or associated with the expert’s firm that work on behalf of the Restricted Person; (2) take all reasonable steps

to segregate those personnel assisting in the expert's participation in this proceeding from those personnel working on behalf of a Restricted Person; and (3) if segregation of such personnel is impractical, the expert shall give to the producing party written assurances that the lack of segregation will in no way adversely affect the interests of the parties or their customers. The parties retain the right to challenge the adequacy of the written assurances that the parties' or their customers' interests will not be adversely affected. No other persons may have access to the Proprietary Information except as authorized by order of the Commission.

9. Reviewing Representatives qualified to receive "HIGHLY CONFIDENTIAL" protected material may discuss HIGHLY CONFIDENTIAL protected material with their client or with the entity with which they are employed or associated, to the extent that the client or entity is not a "Restricted Person," but may not share with, or permit the client or entity to review or have access to, the HIGHLY CONFIDENTIAL protected material.

10. Proprietary Information shall be treated by the parties and by the Reviewing Representative in accordance with the terms of this Protective Order, which are hereby expressly incorporated into the certificate that must be executed pursuant to Paragraph 12(a). Proprietary Information shall be used as necessary, for the conduct of this proceeding and for no other purpose. Proprietary Information shall not be disclosed in any manner to any person except a Reviewing Representative who is engaged in the conduct of this proceeding and who needs to know the information in order to carry out that person's responsibilities in this proceeding.

11. Reviewing Representatives may not use anything contained in any Proprietary Information obtained through this proceeding to give any party or any competitor of any party a commercial advantage. In the event that a party wishes to designate as a Reviewing Representative a person not described in paragraph 6 (i) through (iii) above, the party must first seek agreement to do so from the party providing the Proprietary Information. If an agreement is

reached, the designated individual shall be a Reviewing Representative pursuant to Paragraph 6 (iv) above with respect to those materials. If no agreement is reached, the party seeking to have a person designated a Reviewing Representative shall submit the disputed designation to the presiding Administrative Law Judge for resolution.

12. (a) A Reviewing Representative shall not be permitted to inspect, participate in discussions regarding, or otherwise be permitted access to Proprietary Information pursuant to this Protective Order unless that Reviewing Representative has first executed a Non-Disclosure Certificate in the form provided in Appendix A, provided, however, that if an attorney or expert qualified as a Reviewing Representative has executed such a certificate, the paralegals, secretarial and clerical personnel under his or her instruction, supervision or control need not do so. A copy of each executed Non-Disclosure Certificate shall be provided to counsel for the party asserting confidentiality prior to disclosure of any Proprietary Information to that Reviewing Representative.

(b) Attorneys and outside experts qualified as Reviewing Representatives are responsible for ensuring that persons under their supervision or control comply with the Protective Order.

13. The parties shall designate data or documents as constituting or containing Proprietary Information by stamping the documents "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL" protected material. Where only part of data compilations or multi-page documents constitutes or contains Proprietary Information, the parties, insofar as reasonably practicable within discovery and other time constraints imposed in this proceeding, shall designate only the specific data or pages of documents which constitute or contain Proprietary Information.

14. The Commission and all parties, including the statutory advocates and any other agency or department of state government will consider and treat the Proprietary Information as within the exemptions from disclosure provided in the Pennsylvania Right-to-Know Act (65 P.S. § 67.101 *et seq.*) until such time as the information is found to be non-proprietary.

15. Any public reference to Proprietary Information by a party or its Reviewing Representatives shall be to the title or exhibit reference in sufficient detail to permit persons with access to the Proprietary Information to understand fully the reference and not more. The Proprietary Information shall remain a part of the record, to the extent admitted, for all purposes of administrative or judicial review.

16. Part of any record of this proceeding containing Proprietary Information, including but not limited to all exhibits, writings, testimony, cross examination, argument, and responses to discovery, and including reference thereto as mentioned in paragraph 15 above, shall be sealed for all purposes, including administrative and judicial review, unless such Proprietary Information is released from the restrictions of this Protective Order, either through the agreement of the parties to this proceeding or pursuant to an order of the Commission.

17. The parties shall retain the right to question or challenge the confidential or proprietary nature of Proprietary Information and to question or challenge the admissibility of Proprietary Information. If a party challenges the designation of a document or information as proprietary, the party providing the information retains the burden of demonstrating that the designation is appropriate.

18. The parties shall retain the right to object to the production of Proprietary Information on any proper ground, and to refuse to produce Proprietary Information pending the adjudication of the objection.

19. Within 30 days after a Commission final order is entered in the above-captioned proceeding, or in the event of appeals, within thirty days after appeals are finally decided, the receiving party, upon request, shall either destroy or return to the parties all copies of all documents and other materials not entered into the record, including notes, which contain any Proprietary Information. In its request, a providing party may specify whether such materials should be destroyed or returned. In the event that the materials are destroyed instead of returned, the receiving party shall certify in writing to the providing party that the Proprietary Information has been destroyed. In the event that the materials are returned instead of destroyed, the receiving party shall certify in writing to the providing party that no copies of materials containing the Proprietary Information have been retained.

Date: \_\_\_\_\_, 2012

\_\_\_\_\_  
Dennis J. Buckley  
Administrative Law Judge

**APPENDIX A**

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

**NON-DISCLOSURE CERTIFICATE**

TO WHOM IT MAY CONCERN:

The undersigned is the \_\_\_\_\_ of \_\_\_\_\_  
(the receiving party).

The undersigned has read and understands the Protective Order deals with the treatment of Proprietary Information. The undersigned agrees to be bound by, and comply with, the terms and conditions of said Order, which are incorporated herein by reference.

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
PRINT NAME

\_\_\_\_\_  
ADDRESS

\_\_\_\_\_  
EMPLOYER

DATE: \_\_\_\_\_

# **EXHIBIT C**

## **PROPOSED DISCOVERY MODIFICATIONS**

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**PETITION OF PECO ENERGY COMPANY            :**  
**FOR APPROVAL OF ITS DEFAULT                 :** **DOCKET NO. P-2012-2283641**  
**SERVICE PROGRAM (CUSTOMER                 :**  
**ASSISTANCE PROGRAM SHOPPING PLAN)       :**

**PROPOSED DISCOVERY PROCEDURE MODIFICATIONS**

1. When an interrogatory, request for production, request for admission or motion is served after 12:00 p.m. on a Friday or the day before a holiday, the appropriate response period is deemed to start on the next business day.
2. Answers to written interrogatories are to be served in-hand within seven (7) calendar days of service of the interrogatories.
3. Objections to interrogatories are to be communicated orally to the party serving the interrogatory within three (3) days of service; unresolved objections are to be served on the ALJ in writing within five (5) days of service of written objections.
4. Motions to dismiss objections and/or direct the answering of interrogatories are to be filed within three (3) calendar days of service of written objections.
5. Answers to motions to dismiss objections and/or directing the answer of interrogatories are to be filed within three (3) calendar days of service of such motions.
6. Responses to requests for document production, entry for inspection, or other purposes are to be served, in-hand, within seven (7) calendar days of service of the request.
7. Interrogatories, requests for production and requests for admissions that are objected to but which are not made the subject of a motion to compel will be deemed withdrawn.

8. Requests for admission shall be deemed admitted unless objected to within five (5) calendar days of service or answered within seven (7) calendar days of service.
9. Pursuant to 52 Pa. Code §5.341(b), neither discovery requests nor responses thereto are to be served on the Commission or the Administrative Law Judge, although a certificate of service may be filed with the Commission's Secretary.
10. Discovery requests, motions to compel and responses are to be served electronically as well as on paper.