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OCA STATEMENT NO. 5-S
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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Mr. Wolf

APPLICATION OF PECO ENERGY FOR
APPROVAL OF ITS RESTRUCTURING
PLAN UNDER SECTION 2806 OF THE
PUBLIC UTILITY CODE

Docket No. R-00973953

SURREBUTTAL TESTIMONY

OF

BARBARA ALEXANDER

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On Behalf of:

OFFICE OF CONSUMER ADVOCATE

OCTOBER 1997

Surrebuttal Testimony
Barbara R. Alexander
PECO Energy Co.
Docket No. R-00973953

1 Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

2 A. My name is Barbara R. Alexander, Consumer Affairs Consultant, 15 Wedgewood Dr.,
3 Winthrop, Maine 04364.

4

5 Q. HAVE YOU PREVIOUSLY TESTIFIED IN THIS PROCEEDING?

6 A. Yes. I submitted direct testimony (OCA Statement No. 5) and various supporting exhibits
7 (BA-1, BA-2, and BA-3) on behalf of the Office of Consumer Advocate in June. A
8 statement of my qualifications is contained in my direct testimony.

9

10 Q. WHAT IS THE PURPOSE OF YOUR SURREBUTTAL TESTIMONY?

11 A. The purpose of my surrebuttal testimony is to address those issues that are not resolved in
12 the August 25, 1997 Partial Settlement reached by PECO Energy, and numerous parties.
13 These unresolved issues are identified in Appendix H of the Partial Settlement. With
14 respect to the issues raised in my direct testimony and PECO's rebuttal that are not
15 resolved, I am responding to the Company's rebuttal testimony filed by Marilyn C. Kray,
16 specifically Exhibit MCK-7, William F. Sundermeir, Gregory A. Cucchi and J. Gregory
17 Sidak concerning consumer protections, the Company's proposed Code of Conduct,
18 metering and billing policies, and certain other procedures and fees governing the

1 Company's interactions with both customers and competitive suppliers.

2 Q. PLEASE SUMMARIZE YOUR OVERALL CONCERN WITH THE COMPANY'S
3 REBUTTAL TESTIMONY ON CUSTOMER PROTECTIONS, CODE OF CONDUCT,
4 METERING AND BILLING, AND INTERACTIONS WITH SUPPLIERS.

5 A. First, the Company has not presented proposals to implement several Commission
6 directives in its July 11, 1997 Orders on Customer Information [Docket No. M-00960890
7 F. 0008] and Guidelines for Maintaining Customer Services at the Same Level of Quality
8 [Docket No. M-00960890 F.0011]. Second, the Company did not respond to certain
9 specific suggestions I made in my direct testimony. In several cases, the lack of detail in
10 the Company's proposals has made it difficult to determine whether there is disagreement
11 between PECO and myself. I continue to urge the Commission to adopt the proposals
12 contained in my direct testimony on these topics.

13
14 Q. PLEASE DESCRIBE SPECIFICALLY THE DEFICIENCIES WITH PECO'S
15 PROPOSALS REGARDING THE COMMISSION'S JULY 11, 1997 ORDER ON
16 MAINTAINING CUSTOMER SERVICE QUALITY.

17 A. Mr. Cucchi has not provided a proposal for a supplier-only billing option (with the
18 associated complaint handling) as required by the Commission in its Filings Order [Order
19 Re: Electric Utility Restructuring Filings Made Pursuant to 66 Pa. C.S. §2806(e), Docket
20 No. M-00960890 F.0003, Feb. 13, 1997] and the July 11, 1997 Customer Service
21 Quality Order, Guideline II.B. While the Commission contemplated that parties could

1 raise both policy and technical compliance issues concerning this option in the individual
2 utility restructuring cases¹, it is not possible to adequately review that option if PECO
3 does not present a proposal for this billing and complaint handling option. Mr. Cucchi's
4 rebuttal testimony continues to argue PECO's position that the Customer Choice Act does
5 not allow suppliers to issue a unified bill that contains the PECO distribution/transmission
6 charges and opposes unbundling the metering and billing functions. The Company's
7 policy arguments in this proceeding, however, should be accompanied by a good faith
8 proposal to explore the supplier-only billing and consumer complaint option and the
9 limited unbundling of the meter function required by the Commission. PECO should be
10 directed to comply with the Commission's order and submit a plan for the option of
11 allowing suppliers to issue a consolidated bill. At a minimum, PECO should be required
12 to investigate the implications for this approach in the design and implementation of its
13 new billing system. The customer service and protections that the Company suggests will
14 be at risk with unbundling can best be explored in the context of a proposal by the
15 Company that presents the options directed by the Commission.

16
17 Q. PLEASE DESCRIBE THE COMPANY'S FAILURE TO COMPLY WITH THE
18 COMMISSION'S CUSTOMER INFORMATION ORDER.

¹The Commission's Order on August 21, 1997 denying the IBEW Petition for Reconsideration, Clarification, Rescission and Amendment of the July 11 Maintaining Customer Service Quality Order reaffirmed the filing requirement and states that "...we anticipated that metering and billing issues would be addressed each restructuring case." At 3-4.

1 A. The Company has not yet submitted bill formats or other proposals designed to respond to
2 the Commission's Customer Information Order. This Order sets forth key disclosures
3 required for both distribution company and supplier bills and PECO should be required to
4 demonstrate how it will comply with these Interim Requirements in this proceeding for
5 both the distribution charges and generation charges that will appear on its bills.

6 Q. PLEASE DESCRIBE YOUR CONCERN WITH PECO EXHIBIT MCK-7.

7 A. The Company's credit and collection guidelines do not clearly meet to the Commission's
8 directives concerning when termination without the customer's consent can occur. Ms.
9 Kray's Exhibit MCK-7 contains language in Section 7 of the Guidelines, Termination of
10 Service/Payment Agreements, that is not clear. The statement, "PECO will be the only
11 entity who can physically terminate a customer's service" is correct, but does not identify
12 when PECO can threaten termination and for what purpose. Furthermore, with regard to
13 a supplier who receives one bill that includes both PECO and supplier charges, the
14 statement that "PECO may continue collection and termination for the customer upon
15 proper application of the appropriate Chapter 56 provisions" does not clearly distinguish
16 between the unpaid distribution and unpaid supplier charges. This section could be
17 interpreted to allow PECO to disconnect a customer for the failure to pay supplier charges
18 that are billed by PECO as long as the Chapter 56 procedures are followed. This section
19 also suggests that PECO could "continue collection and termination" if a customer, who is
20 being billed by the Supplier directly, fails to make payment on the Supplier's charges and
21 returns to PECO as the Supplier of Last Resort.

1 PECO should be required to submit language that clearly complies with the
2 Commission's directives in its Maintaining Customer Service Quality Order. That is,
3 PECO cannot threaten or actually terminate a customer for the failure to pay any charges
4 owed to a supplier whether the customer is being billed on a consolidated basis by PECO
5 or by a supplier directly. The language in Section 7 which attempts to distinguish between
6 the situation in which the customer is being billed for generation charges by PECO from
7 the situation in which the customer is billed directly by the supplier is not relevant to
8 whether PECO can terminate or threaten termination (by including the unpaid supplier
9 charges in the amount overdue on the notice of termination) for generation charges.
10 Furthermore, these unpaid charges owed to a supplier cannot be transferred to PECO for
11 collection as the Supplier of Last Resort. Nor can PECO include any amount overdue
12 owed to its generation affiliate on a termination notice.

13 I suggest the following language for Section 7, Termination of Service/Payment
14 Agreements for PECO's Guidelines:

15 PECO will continue to comply with the provisions of Chapter 56 for the
16 termination of distribution and transmission services. A customer will not be
17 issued a notice of termination nor will a customer's service be terminated for the
18 failure to pay any generation charges billed by a supplier or unregulated charges,
19 whether or not those charges appear on a bill issued by PECO Energy. PECO
20 Energy may terminate service according to Chapter 56 for the generation portion
21 of the customer's bill only when the customer is receiving generation services
22 provided by PECO as the provider of last resort.

23
24 A supplier who seeks to cancel a contract with a customer must clearly
25 state that the customer will return to PECO's default service [or alternative name]
26 if the customer's contract with the supplier is cancelled.

27
28 PECO will continue to offer a customer payment arrangements in

1 accordance with Chapter 56 for both the distribution/transmission and supplier
2 charges if the customer receives a combination bill from PECO. Suppliers who bill
3 directly will remain responsible for their own payment arrangement policy with
4 their customers.
5

6 In general, PECO's guidelines should be rewritten to specifically take into account
7 a multiple supplier marketplace and should specifically distinguish PECO's role as a
8 distribution company, a competitive supplier (via its affiliate) and the Supplier of Last
9 Resort.

10 Q. PLEASE COMMENT ON PECO'S TESTIMONY CONCERNING ITS FUTURE
11 CORPORATE STRUCTURE, ITS SALE OF RETAIL ELECTRIC SERVICES AND
12 THE RELATIONSHIP OF THIS ISSUE TO THE CONCERNS RAISED BY
13 SEVERAL PARTIES ON THE COMPANY'S PROPOSED CODE OF CONDUCT.

14 A. PECO has clarified some aspects of its future corporate structure and manner in which it
15 proposes to market and sell retail electricity and other services. Mr. Cucchi's rebuttal
16 testimony describes the future activities of the Venture Group and the Merchant Group.
17 The Venture Group will be composed of the Company's competitive telecommunications
18 businesses and the Horizon Energy Company, a PECO affiliate, through which PECO will
19 market electricity in its own and in other pilot programs. The Merchant Group will
20 contain all the other non-nuclear competitive businesses that PECO will conduct,
21 "...whether through affiliates or PECO groups or divisions." [Cucchi Rebuttal at 19]
22 Employees who work for PECO's distribution business will not be responsible for
23 promoting or marketing any competitive business. Mr. Cucchi's rebuttal testimony also
24 describes the employees of these two competitive organizations as separate from PECO's

1 distribution company. Furthermore, the Horizon Energy employees will be physically
2 separated from those facilities where the distribution company functions are being carried
3 out and will not have access to the distribution company billing system.

4 However, PECO proposes that Horizon will obtain some services from PECO at
5 the higher of actual costs or market price, including its call center for customer service
6 needs. Furthermore, Horizon “may” use PECO’s name to market its services.

7 These changes are welcome and clarify some of PECO’s intentions, but they are
8 not sufficiently detailed to either endorse or oppose. The Commission must determine
9 exactly how PECO intends to organize itself and its relationship with its affiliates or any
10 other competitive divisions or offices before approving such changes.

11 For example, PECO proposes that some of its competitive business efforts may be
12 a part of the Merchant Group, but there is no detail as to this organization or the
13 businesses that it might conduct. This is particularly important because Mr. Cucchi
14 proposes that this Group may conduct business as a division or office of PECO’s
15 distribution function and not as a structurally separate affiliate. Second, PECO does not
16 explain whether and how its current competitive products offered for sale to its customers
17 (e.g., its appliance repair and surge suppression programs) will be handled in this new
18 corporate structure. Third, PECO fails to respond to the specific proposals I made in my
19 direct testimony concerning PECO’s procedures when a customer calls the distribution
20 company to initiate new service. My recommended proposals should be adopted.

21 Finally, PECO fails to specify whether Horizon Energy will in fact use PECO’s

1 name in its marketing campaigns. Because PECO has the entire market at the onset of
2 customer choice and PECO's name will continue to appear on every customer's bill for
3 distribution services, the use of PECO's name to market the sale of electricity by its
4 affiliate is a very valuable asset. The Commission should consider both the value of this
5 asset and the potential impact of its use on the development of a competitive market in
6 deciding this matter.

7 Q. PLEASE COMMENT ABOUT JOINT MARKETING.

8 A. Joint marketing by PECO Energy, the distribution company, and any of PECO's retail
9 sales divisions or affiliates should be prohibited as it is in Massachusetts, and as
10 recommended by the Vermont Board of Public Service. For similar reasons, the
11 Telecommunications Act of 1996 [47 U.S.C. §272] requires a regional Bell Operating
12 Company to conduct its competitive long distance business in a structurally separate
13 affiliate for a certain time period after the onset of competition. This has been interpreted
14 by the FCC to prohibit the BOC from jointly marketing long distance services with its
15 local basic exchange service for a period of time because of the obvious market concerns
16 Congress had in trying to stimulate the creation of a competitive market. This analogy
17 should be relied upon by the Commission in its consideration of the proposals concerning
18 joint marketing in this proceeding.

19 Q. PLEASE COMMENT FURTHER ON PECO'S APPROACH TO ITS CORPORATE
20 ORGANIZATION AND CODE OF CONDUCT.

21 A. Both Mr. Cucchi and Mr. Sidak take the position that PECO's proposals are "fair" and

1 that to oppose them only favors PECO's competitors. They also suggest that many of the
2 suggestions made by the Parties will raise prices for PECO's customers and deprive them
3 of competitive opportunities. I do not agree with this conclusion. Neither Mr. Cucchi nor
4 Mr. Sidak acknowledge the overriding reality of the new "competitive electricity market"
5 and that is on day one of this new regime PECO has all the customers. Furthermore, on
6 day two and afterwards, PECO has all the same customers for monopoly distribution
7 services and is the default supplier of electricity for all the customers who do not choose
8 to change their supplier. To suggest, as PECO's witnesses do, that any restrictions
9 concerning PECO's ability to market to these customers is unfair is incorrect. It is not my
10 purpose to endorse every proposal made by the competitors' witnesses. At the very least,
11 however, the Commission should adopt a strict Code of Conduct based on the decisions
12 reached by the California and Massachusetts commissions, as I suggested in my direct
13 testimony, and take steps to respond to the realities of the current electric market and the
14 likely result in the early years of electric competition.

15 Q DO YOU HAVE ADDITIONAL COMMENTS CONCERNING THE COMMISSION'S
16 ADOPTION OF A CODE OF CONDUCT?

17 A Yes, I recommend that the Commission follow the lead of Massachusetts and California
18 and adopt a meaningful, clear and well reasoned Code of Conduct. I attach the Code of
19 Conduct adopted by the Massachusetts Department of Public Utilities as Exh. BA-4, and
20 urge the adoption of an equivalent policy in Pennsylvania.

1 Q. THE COMPANY, IN THE REBUTTAL OF MR. SUNDERMEIR, PROPOSES TO
2 UTILIZE THE \$6.00 FEE SPECIFIED IN RULE 9.7, FOR ITS SWITCHING FEE. IS
3 THIS APPROPRIATE?

4 A. The Company in its Rebuttal Testimony is seeking to impose a \$6.00 fee on all customers
5 who switch their supplier. The existence and the amount of a switching fee will have an
6 impact on the development of the competitive market, particularly in the early days when
7 customers must get used to the notion of customer choice. At the very least, I
8 recommend that the Commission not allow any fee to be charged to select an alternative
9 supplier in the early stages of customer choice or for a certain time period after a customer
10 initiates service, e.g., 90 days. I do not question that PECO will incur some costs to
11 effectuate a customer's change of supplier and a fee similar to the charge imposed by local
12 telephone companies to change a customer's long distance telephone provider may be
13 reasonable. However, the Commission should require that the charge be fully supported
14 and carefully consider when or whether any fee should be charged during the transitional
15 period. If a fee is allowed, it should be the lowest possible fee. For example, it may not
16 be necessary for a customer's meter to be read prior to a change in the customer's
17 supplier, if the customer agrees to the use of a prorated bill for that month.

18 In addition, I am very concerned about the imposition of such a fee when a
19 customer receives Provider of Last Resort Service. Many customers may receive this
20 service temporarily and for short periods of time if their supplier cancels the contract or
21 the customer is in-between suppliers. It would not be fair to charge this fee every time a

1 customer makes use of this service for a short period of time. This is particularly true for low
2 income customers.

3 I recommend that the Commission require that:

- 4 • the lowest possible fee be charged;
- 5 • the fee reflect the costs of a switch in suppliers without the necessity of a physical meter
6 reading if the customer consents to a prorated bill;
- 7 • the fee be waived for a certain time period after the onset of competition to stimulate
8 customers to select suppliers;
- 9 • the fee be waived for a period of up to 90 days for new customers of the distribution
10 company; and
- 11 • the Commission consider waiving the fee for low income customers as part of a
12 Company's universal service obligations.

13
14 O. DO YOU HAVE ANY COMMENT ON THE OTHER FEES PROPOSED BY MR.
15 SUNDERMEIR?

16 A. I understand from the Company's Exhibit (WFS-12) that the bill fee is charged to
17 suppliers to have access to PECO's billing system and that the load use profile fee is
18 charged only to those customers who have telemetric, continuous hourly metering. I have
19 no comment on the amount of these fees at this time with the understanding that the billing
20 fee is not charged to customers directly and that the load use profile fee is not charged to
21 residential and small business customers, who, for the most part do not have continuous

1 hourly meters, but who may want to have a copy of their recent usage profile released to
2 suppliers. I do note, however, that if PECO charges this billing fee to suppliers, it must of
3 course also charge the same fee to its affiliates. Furthermore, if customers do receive a
4 bill directly from their supplier, there should be commensurate savings to those customers
5 for whom PECO does not have to bill and collect for generation services.

6
7 Q. DOES THIS COMPLETE YOUR TESTIMONY?

8 A. Yes, it does.

9 44133

Electric Industry Restructuring Plan: Model rules and Legislative Proposal,
Massachusetts D.P.U. 96-100 (December 30, 1996)
Appendix F: Standards of Conduct

APPENDIX F

220 CMR 12.00 STANDARDS OF CONDUCT FOR DISTRIBUTION COMPANIES
AND THEIR COMPETITIVE AFFILIATES
(FROM D P L' 96-44)

Section

- 12.01 Purpose and Scope
- 12.02 Definitions
- 12.03 Standards of Conduct

12.01 Purpose and Scope

- (1) **Purpose.** 220 C.M.R. 12.00 sets forth the Standards of Conduct governing the relationship between a Distribution Company and its unregulated Competitive Affiliate transacting business in Massachusetts.
- (2) **Scope.** 220 C.M.R. 12.00 applies to all Distribution Companies and their Competitive Affiliates. 220 C.M.R. 12.00 is not intended to supersede existing applicable law and regulations.

12.02 Definitions

- (1) **Antitrust Laws** are federal and state statutes, including the Sherman Act, 15 U.S.C. §§ 1-7, the Clayton Act, 15 U.S.C. §§ 12-27, and the Massachusetts Antitrust Act, G.L. c. 93, §§ 1-14A, which were designed to protect trade and commerce from unlawful restraints, undue price discrimination, certain forms of concerted behavior such as price fixing, and monopolization.
- (2) **Competitive Affiliate** refers to (i) any "affiliated company," as defined in G.L. c. 164, § 85, or (ii) any unit or division within a Distribution Company or its parent, or (iii) any separate legal entity either owned or subject to the common control of the Distribution Company or its parent, and such affiliate company, unit or division, or separate legal entity engages in the selling or marketing of natural gas, electricity, or related services on a competitive basis, including, but not limited to, natural gas or electric supply or capacity, and demand-side management.
- (3) **Department** refers to the Department of Public Utilities.

- (4) Distribution Company refers to a natural gas local distribution company or electric company that provides distribution services under the jurisdiction of the Department
- (5) Employee refers to an officer, director, employee or agent who has specific knowledge of, or direct access to, information not otherwise available to Non-affiliated Suppliers that could provide a Competitive Affiliate with an undue advantage
- (6) Non-affiliated Supplier refers to any entity, including aggregators, engaged in marketing, brokering or selling natural gas, electricity, or related services to retail customers where such product or service is also provided by a Competitive Affiliate

12.03 Standards of Conduct

- (1) A Distribution Company shall apply tariff provisions in the same manner to the same or similarly situated entities if there is discretion in the application of the provision.
- (2) A Distribution Company shall strictly enforce tariff provisions for which there is no discretion in the application of the provision
- (3) A Distribution Company shall not, through a tariff provision or otherwise, give its Competitive Affiliate or customers of its Competitive Affiliate preference over Non-affiliated Suppliers or customers in matters relating to any product or service
- (4) If a Distribution Company provides its Competitive Affiliate, or customer of its Competitive Affiliate, any product or service other than general and administrative support services, it shall make the same products or services available to all Non-affiliated Suppliers or customers on a non-discriminatory basis
- (5) A Distribution Company shall not offer or sell electricity or natural gas commodity or capacity to its Competitive Affiliate without simultaneously posting the offering electronically on a source generally available to the market or otherwise making a sufficient offering to the market
- (6) If a Distribution Company offers its Competitive Affiliate, or a customer of its Competitive Affiliate, a discount, rebate or fee waiver for any product or service, it shall make the same available on a non-discriminatory basis to all Non-affiliated Suppliers or customers

- (7) A Distribution Company shall process all similar requests for a product or service on a non-discriminatory basis
- (8) A Distribution Company shall not condition or tie the provision of any product, service or price agreement by the Distribution Company to the provision of any product or service by its Competitive Affiliate
- (9) A Distribution Company shall not release any proprietary customer information without the prior written authorization of the customer. Initial voice authorization will satisfy this requirement where the Distribution Company obtains subsequent written confirmation within thirty (30) days
- (10) To the extent that a Distribution Company provides a Competitive Affiliate with information not readily available or generally known to any other marketer or supplier, the Distribution Company shall make that information available on a non-discriminatory basis to all Non-affiliated Suppliers transacting business in its service territory. This provision does not apply to customer-specific information obtained with proper authorization, information necessary to fulfill the provisions of a contract, or information relating to the provision of general and administrative support services
- (11) A Distribution Company shall refrain from giving any appearance of speaking on behalf of its Competitive Affiliate in any and all contacts or communications with customers or potential customers. The Distribution Company shall not represent that any advantage accrues to customers or others in the use of the Distribution Company's services as a result of that customer or others dealing with the Competitive Affiliate. The Distribution Company shall not engage in joint advertising or marketing programs of any sort with its Competitive Affiliate, nor shall the Distribution Company promote or market any product or service offered by its Competitive Affiliate.
- (12) If a customer requests information about Non-affiliated Suppliers, the Distribution Company shall provide a current list of all Non-affiliated Suppliers operating on the system or registered with the Department, including its Competitive Affiliate, but shall not promote its affiliate. The list of Non-affiliated Suppliers shall be in random sequence, and not in alphabetical order. The list shall be updated every sixty (60) days to allow for a change in the random sequence
- (13) Employees of a Distribution Company shall not be shared with a Competitive Affiliate, and shall be physically separated from those of the Competitive Affiliate. The Distribution Company shall fully and transparently allocate costs for any

shared facilities or general and administrative support services provided to the Competitive Affiliate

- (14) A Distribution Company and its Competitive Affiliate shall keep separate books of accounts and records which shall be subject to review by the Department in accordance with the provisions of G.L.c. 164, § 85.
- (15) The Department may approve an exemption from the separation requirements of 220 C.M.R. 12.03(13) upon a showing by the Distribution Company that shared employees or facilities would be in the best interests of the ratepayers and have minimal anticompetitive effect, and that the costs can be fully and accurately allocated between the Distribution Company and its Competitive Affiliate. Such exemption shall be valid until such time that the Department determines that modification or removal of the exemption is necessary.
- (16) A Distribution Company shall establish and file with the Department a dispute resolution procedure to address complaints alleging violations of 220 C.M.R. 12.00. Such procedure, at a minimum, shall designate a person to conduct an investigation of the complaint and communicate the results of the investigation to the claimant in writing within 30 days after the complaint was received, including a description of any action taken and the complainant's option to complain to the Department if not satisfied with the results of the investigation.
- (17) A Distribution Company shall maintain a log of all new, resolved and pending complaints alleging violations of 220 C.M.R. 12.00. The log shall be subject to review by the Department and shall include, at a minimum, the written statement of the complaint and the resolution of the complaint, or the reason why the complaint is still pending.
- (18) Any wanton or willful violations of 220 C.M.R. 12.00 shall result in a penalty that reflects the actual or potential injury to ratepayers and the gravity of the violation.
- (19) Nothing in 220 C.M.R. 12.00 shall be construed to confer immunity from state and federal Antitrust Laws. Sanctions for violation of 220 C.M.R. 12.00 do not affect or pre-empt antitrust liability but rather are in addition to any antitrust liability that may apply to the activity.
- (20) Notwithstanding any other provisions in 220 C.M.R. 12.00, in emergency circumstances, a Distribution Company shall take any actions necessary to ensure public safety and system reliability. A Distribution Company shall maintain a log of all such actions, subject to review by the Department.

