

**THE PENNSYLVANIA UTILITY LAW PROJECT
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July 26, 2013

**RE: Petition of PECO Energy Company for Approval :
of its Default Service Program CAP Shopping Plan : P-2012-2283641**

Via E-Filing

Secretary Rosemary Chiavetta
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Dear Secretary Chiavetta

Enclosed please find the Main filed on behalf of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (“CAUSE-PA”) in the above referenced proceeding. Electronic and hard copies have been sent to the parties consistent with the attached certificate of service.

Should you have any question or concerns about this filing please do not hesitate to contact the undersigned.

Respectfully submitted,



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CC: Hon Cynthia W. Fordham
Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of PECO Energy Company for Approval :
of its Default Service Program CAP Shopping Plan : P-2012-2283641

Certificate of Service

I hereby certify that I have this day served copies of CAUSE-PA Statement No 1 SR via Email and US Postal Service First Class Mail upon the statutory parties and counsel of record in the captioned matters as set forth below in accordance with the requirements of 52 Pa. Code § 1.54:

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Petition of PECO Energy Company for Approval :
of its Default Service Program : P-2012-2283641
(Customer Assistance Program Shopping Plan) :**

**MAIN BRIEF OF THE COALITION FOR
AFFORDABLE UTILITY SERVICES AND ENERGY
EFFICIENCY IN PENNSYLVANIA**

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July 26, 2013

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I. INTRODUCTION AND PROCEDURAL HISTORY

The Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (“CAUSE-PA”), through its counsel at the Pennsylvania Utility Law Project, files this brief in support of its positions regarding PECO Energy Company’s (“PECO’s”) Customer Assistance Program (“CAP”) Shopping Plan. In assessing PECO’s CAP Shopping Plan, the Commission must consider the following:

1. Low-income CAP customers of PECO are uniquely situated, economically vulnerable, and require specific and distinct protection within the retail electric market as compared to other electric customers;

2. Universal Service Programs, which include CAP, have been designated by the Electricity Generation Customer Choice and Competition Act (“Choice Act”) and the Commission to provide affordable utility service to payment troubled low-income consumers within the retail electric market;

3. PECO has been required by the Commission to design a CAP Shopping Plan in which CAP customers are able to both participate within the retail electric market and continue to receive affordable electric service;

4. Whether CAP customers remain default service customers or whether they receive generation service from an EGS their bills must be set and maintained at an affordable level.

This proceeding has had more twists and turns in it than the Mississippi river. . On January 13, 2012, PECO filed a Petition for Approval of its Default Service Program (“Petition or “DSP II”) to this docket. The filing was made to establish the terms and conditions under which PECO will procure energy to fulfill its default service obligations to its non-shopping customers, satisfy the requirements imposed by the Alternative Energy Portfolio Standards Act¹ (“AEPs Act”), and recover all associated costs on a full and current basis for the period of June 1, 2013 through May 31, 2015.

On February 13, 2012 the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (“CAUSE-PA”), through its attorneys at the Pennsylvania Utility Law Project, filed a Petition to Intervene. Intervention was granted on March 19, 2012, and CAUSE-PA has actively participated as a party in all stages of this proceeding.

In its Opinion and Order entered on October 12, 2012, the Commission directed PECO to develop a Shopping Plan that will allow its Customer Assistance Program (“CAP”) customers to purchase generation supply from electric generation suppliers (“EGSs”) by January 1, 2014.

On November 8, 2012, the Commission issued a Tentative Order seeking comments on specific aspects of *PECO Energy Company Universal Service and Energy Conservation Plan for 2013-2015* (“Universal Services Plan” or “USEC Plan”) at Docket M-2012-2290911.

Upon review of the comments and reply comments filed pursuant to the November 8, 2012 Tentative Order, the Commission noted that some interested parties share the Commission’s concerns and some have requested the opportunity to participate in an evidentiary proceeding before an Administrative Law Judge (“ALJ”) to more fully review and analyze relevant data.

¹ 73 P.S. §§ 1648.1-1648.8 and related provisions of 66 Pa. C.S. §§ 2813-14.

On January 3, 2013, the Commission issued a Secretarial Letter (the “Secretarial Letter”) in both the DSP II and Three Year Plan proceedings emphasizing the importance of the Commission entering a Final Order on PECO’s CAP Plan in the Three Year Plan proceeding before a CAP shopping plan was submitted in PECO’s DSP II proceeding. Therefore, the Commission directed PECO to file a CAP shopping plan on or around May 1, 2013, designed to allow CAP customers to shop by April 1, 2014.

On April 4, 2013 the Commission entered its Final Order on the amended Universal Service and Energy Conservation Plan for 2013-2015, as filed by PECO Energy Company on October 15, 2012. In its Final Order, the Commission partially approved PECO’s plan and ordered PECO to file a second amended Universal Service and Energy Conservation Plan for 2013-2015 within 30 days.

In the instant petition, PECO requests that the Commission enter an Order: 1) approving the CAP Shopping Plan; (2) approving the proposed changes to the Company’s Electric Tariff and Electric Generation Supplier Coordination Tariff (the “Supplier Tariff”) to implement the Plan and achieve full and current recovery of Plan costs; (3) granting 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 implement an annual reconciliation of the over/under collection component of the Generation Supply Adjustment (“GSA”) for residential customers; and (4) approving a short delay in the commencement date of the Plan from April 1, 2014, to April 15, 2014, to accommodate the Company’s information technology (“IT”) programming and integrated software schedule.

In this phase of the proceeding, PECO, The Office of Consumer Advocate (“OCA”), and CAUSE -PA have each filed Direct, Rebuttal and Surrebuttal testimony. Direct Energy (“DE”)

has filed Direct Testimony, and The Office of Small Business Advocate (“OSBA”) filed rebuttal testimony. A Hearing was held on July 11, 2013 at which the pre-filed testimony and exhibits were admitted into the record.

The evidence of record amply demonstrates that the following determinations concerning PECO’s proposed Shopping Plan are warranted:

1. PECO’s proposal to require CAP suppliers to provide rates below PECO’s Price to Compare (“PTC”) is a necessary and reasonable element of its CAP Shopping Plan and should be approved.
2. PECO’s Plan requires a firm commitment to consumer education.
3. PECO’s Plan requires specific consumer protections against discrimination, the charging of fees which affect affordability of service and which impede the ability of a customer to switch to a less expensive supplier.
4. PECO’s Plan requires a method to monitor compliance.
6. CAP shopping costs should be borne by the supplier.
7. CAP shopping costs should not be part of the Universal Service Rider; and
8. Aggregation is an option that may be incorporated into the Plan.

II. LEGAL STANDARD

PECO’s Plan must fully comply with the applicable provisions of the Public Utility Code, 66 Pa. C.S. §§ 101 *et seq.*, Commission regulations, orders and policy statements. The Electricity Generation Customer Choice and Competition Act, Act 138 of 1996, as amended by Act 129 of 2008 (Act 129), codified at 66 Pa. C.S. §§ 2801 *et seq.*, (“Competition Act”, “Electric Choice Act” or “the Act”) The Competition Act established standards and procedures for the restructuring of the electric utility industry. Concurrently with opening the markets to competition, the Competition Act required Universal Service Programs and included provisions

to ensure that those programs enable low-income customers to maintain utility service through affordable program rates.

The universal service provisions of the Competition Act, among other things, tie the affordability of electric service to a customer's ability to pay for that service. The Competition Act defines "universal service and energy conservation" as the policies, practices and services that help low income customers maintain utility service. 66 Pa. C.S. § 2803. The term includes customer assistance programs, usage reduction programs, service termination protections, and consumer education. 66 Pa. C.S. § 2803. In addition, the Competition Act declares that the Commonwealth must, at a minimum, continue the low income policies, practices, and services that were in existence as of the effective date of the law. 66 Pa. C.S. § 2802(10). The Competition Acts require the Commission to ensure that universal service and energy conservation services are appropriately funded and available in each utility distribution territory. 66 Pa. C.S. § 2804(9). Under the Act, the Commission is required to maintain, at a minimum, the protections, policies and services that assist customers who are low income to afford electric service. 66 Pa. C.S. § 2802(10). Universal Service programs include Customer Assistance Programs (CAP), the Low Income Usage Reduction Program (LIURP), Customer Assistance and Referral and Evaluation Programs (CARES) and various utility hardship funds.

CAP is a general term used to describe utility payment assistance and debt-forgiveness programs for payment-troubled households.² CAPs are regulated programs which provide a discounted bill for payment troubled, low-income ratepayers whose household incomes are at or

² 52 Pa. Code § 54.72 – CAP – Customer Assistance Program – An alternative collection method that provides payment assistance to low-income, payment troubled utility customers. CAP participants agree to make regular monthly payments that may be for an amount that is less than the current bill in exchange for continued provision of electric utility services.

below 150% of the federal poverty income guidelines.³ Each CAP bill is divided into two parts: (1) the amount that the CAP customer must pay each month, and (2) their monthly CAP subsidy payment. CAP's payment assistance feature is intended to provide affordable monthly bills based on a household's size and gross income. These lower rates are applied to ongoing usage as long as the household remains current and timely in paying its monthly customer assistance payments. CAP rates may take the form of a discounted price on actual usage, on either all or a portion of the usage, as is the case in PECO's current CAP design. CAP programs are currently guided by the "Policy Statement on Customer Assistance Programs," 52 Pa Code §§ 69.261-69.267 which, among other requirements, establish the maximum energy burden parameters for CAP customers. The Act further requires that default service providers acquire electric energy through a "prudent mix" of resources that are designed: (i) to provide adequate and reliable service; (ii) to provide the least cost to customers over time; and (iii) to achieve these results through competitive processes that include auctions, requests for proposals and/or bilateral agreements. 66 Pa. C.S. §§ 2807(e)(3.1) and 2807 (e)(3.4). The Competition Act does not, however, require a specific default service rate design methodology. *Id.* Furthermore, the Competition Act mandates that customers have direct access to a competitive retail generation market. 66 Pa. C.S. § 2802(3). This mandate is based on the legislative finding that "competitive market forces are more effective than economic regulation in controlling the cost of generating electricity." 66 Pa. C.S. § 2802(5). *See, Green Mountain Energy Company v. Pa. PUC*, 812 A.2d 740, 742 (Pa. Cmwlth. 2002).

In addition to the foregoing statutory guidelines, the Commission has enacted default service regulations, 52 Pa. Code §§ 54.181 to 54.189, and a policy statement, 52 Pa. Code §§

³ 52 Pa. Code § 59.72; 52 Pa. Code § 69.262;

69.1802 to 69.1817, addressing default service plans. The regulations first became effective in 2007 and recently have been amended to incorporate the Act 129 amendments to the Competition Act. *Implementation of Act 129 of October 15, 2008; Default Service And Retail Electric Markets*, Docket No. L 2009-2095604 (Final Rulemaking Order entered October 4, 2011) (*Act 129 Final Rulemaking Order*).

III. ARGUMENT

A. Low-income CAP customers of PECO are uniquely situated, economically vulnerable, and require specific and distinct protection within the retail electric market as compared to other electric customers.

PECO, to its credit, has proposed a plan intended to address the interdependent requirements of CAP customer benefitting from the development of the competitive market while continuing to receive affordable electric service. PECO proposes that any supplier who wants to serve CAP customers must agree to not discriminate among CAP customers, charge CAP customers no more than PECO's default service (Price to Compare) rates, and if they include an early termination fee they would have to collect that outside of the EDC bill. (PECO ST.1 at 9:6-10:10.) PECO will continue its role of determining CAP eligibility and enrolling and calculating the CAP tier discount which would apply. The discount will apply to the distribution and the generation supply of the bill whether served by PECO or supplier.

In his testimony, CAUSE-PA witness Miller indicated that, while in some respects PECO's requirements should be strengthened, they are reasonable. However, Direct Energy witness Kallaher concludes that PECO's plan is deficient in that it fails to treat its CAP customers in the same way that it treats other customers in the competitive environment. Mr.

Kallaher states that PECO should “treat CAP customers as one would treat other customers.” (Direct Energy St.1 at 6:11-12.)

CAUSE-PA submits Mr. Kallaher’s testimony that CAP customers should be treated identically to all other customers and that there should be no separate policies for CAP customer shopping is fundamentally flawed. It indicates complete lacks of recognition of the unique economic circumstances of PECO’s CAP customers and of the requirement of affordable bills that is an inherent aspect of universal service. As witness Miller points out, PECO’s CAP customers participate in PECO’s CAP because they are economically vulnerable, require specific assistance to afford their electric bills and to maintain electric service. It is precisely their status as CAP customers that render them distinct from other PECO residential customers. (CAUSE-PA CAP Shopping Statement No.1-R at 2:10-13.) Mr. Miller further points out that the unique characteristic of economic vulnerability has been recognized by the General Assembly in the Choice Act and by the Commission through its CAP policies, orders and guidelines. He concludes that the *consequences* of a poor shopping decision – or an initially good decision that later turns into a poor decision through not paying careful attention to the sometimes confusing timing of contract terms – are far more dire to a low-income household than a non-low-income households. (CAUSE-PA CAP Shopping Statement No. 1-R at 2:14-17)

Furthermore, Mr. Kallaher’s recommendation that there need not be protections built into a plan that allows CAP customers to shop fails to recognize that there are CAP program costs which are borne by non-CAP residential customers, and that PECO and the Commission are charged with the responsibility to control those costs. The testimony of OCA witness Colton methodically and correctly details how allowing EGS prices to exceed the PTC would not only

increase the incidence and depth of unaffordability for low-income CAP participants but would also result in an increase in rates to CAP non-participants (OCA ST No.CAP-1 at 8:7-10:14.)

It is for these reasons, among others cited within the testimonies of PECO, OCA and CAUSE- PA, that the rules for CAP shopping ought to be different than for those not enrolled in CAP. Mr. Kallaher’s conclusion that PECO should “treat CAP customers as one would treat other customers” is fundamentally incorrect.

B. PECO’s proposal to require CAP suppliers to provide rates below PECO’s Price to Compare (“PTC”) is a necessary and reasonable element of its CAP Shopping Plan and should be approved.

PECO proposes that any supplier who wants to serve CAP customers must agree to charge CAP customers no more than PECO's default service (Price to Compare) rates. PECO’s witnesses as well as CAUSE-PA witness Miller and OCA witness Colton have each testified in support of this requirement as reasonable and necessary in order to comply with the Competition Act’s universal service requirements, and Commission Orders for PECO to provide affordable rates for CAP participants. However, Direct Energy witness Kallaher takes exception to this proposed requirement by asserting that “Direct Energy opposes any requirement that caps the price for generation” (DE ST. 1 at 4: 11.) He further states that “Direct Energy does not object to maintaining current protections for CAP customers or complying with the Commission’s existing rules and regulations regarding universal service, but a hard cap on prices, unrelated to market conditions at the time of sale is anti-competitive and unwarranted.” (DE ST 1 at 4:18-21.)

Mr. Kallaher’s position is untenable. As witness Miller testified:

I have a number of concerns with this position. First, there is an inherent conflict in Direct Energy’s opposition to limitations on the cost of service to CAP customers while at the same time not objecting to current protections for CAP customers or complying with the Commission’s existing rules and regulations regarding universal service. As my direct testimony pointed out, the Commission has specifically recognized that the Competition Acts while opening the markets

to competition also include several provisions relating to universal service in order to ensure that utility service remains available to all customers in the Commonwealth.

(CAUSE-PA CAP Shopping Statement No. 1-R at 4:12-19.)

Mr. Miller further stated: Mr. Kallaher fails to recognize the balance which PECO's CAP shopping plan must achieve between the needs of CAP customer bill payment affordability, maintaining the structure of PECO's CAP program design and the costs to be borne by other ratepayers.

(CAUSE-PA CAP Shopping Statement No. 1-R at 5:6-8..)

Any CAP shopping plan must start from the basic premise that it not compromise bill affordability for CAP customers. This is a core component of PECO's responsibility in managing its CAP program and a core requirement of the Commission under the Choice Act⁴ and the Commission's regulations.⁵ When the Pennsylvania General Assembly enacted the Choice Act in 1996 it was concerned, among other things, about the ability of low-income households to continue to be able to afford electricity in a competitive environment.⁶ As a means of addressing these concerns, the General Assembly specifically tasked the Commission with the responsibility of ensuring that the programs intended to facilitate the affordability of electric service are appropriately funded and available in each electric distribution territory.⁷ The universal service provisions of the Choice Act tie the affordability of electric service to a customer's ability to pay for that service,⁸ and the statutory goals of universal service are to be achieved through the enactment, establishment and maintenance of policies, practices and services that help low-income customers maintain their electric service.⁹

⁴ See 66 Pa. C.S. §§ 2802(10), (17), and 2804(9).

⁵ 52 Pa. Code 54.71 *et seq.*

⁶ See 66 Pa. C.S. §§ 2802(10), (17), and 2804(9).

⁷ 66 Pa. C.S. § 2804(9).

⁸ 52 Pa. Code. § 54.73

⁹ *Ibid.*

The direct testimony of OCA witness Roger Colton comprehensively analyzes the reasonableness of PECO's PTC requirement and correctly concludes that EGS prices should not exceed PECO's default rates. Mr. Colton demonstrates that EGS prices higher than the price to compare would adversely affect the ability of CAP customers to pay their bills; would increase the depth as well as the incidence of unaffordability for CAP customers; and would increase rates to residential non-CAP participants as a result of increased credit and collection, bad debt, working capital and CAP shortfall costs which the non-CAP customer would be required to shoulder. (OCA St 1 at 5-10.) CAUSE-PA agrees and submits that PECO's requirement that a CAP supplier must charge CAP customers no more than PECO's default service, is warranted, correct, and necessary.

C. PECO's Plan requires a firm commitment to consumer education.

OCA witness Colton recommends that the PECO's CAP Shopping Plan requires a firm commitment to consumer education in order to ensure that CAP participants can determine, in addition to whether or not to enter the market, how to effectively operate within that market. (OCA St 1 at 13:5-16.) CAUSE-PA supports the recommendation that the CAP shopping Plan incorporate information regarding how to navigate entry and exit from the market as well as CAP customer rights, responsibilities, risks and benefits of shopping. As CAUSE-PA witness Miller points out, the *consequences* of a poor shopping decision – or an initially good decision that later turns into a poor decision through not paying careful attention to the sometimes confusing timing of contract terms – are far more dire to low-income households than other households. (CAUSE-PA CAP Shopping Statement No. 1-R at 2:24-16.) In addition the significant churn of customers in and out of CAP, as noted by PECO evaluator APPRISE and Mr. Colton, would require that education be an ongoing part of the CAP shopping program and

not just a one and done activity. CAUSE-PA agrees and this requirement should become a part of any plan approved by the Commission.

D. PECO's Plan requires specific consumer protections against discrimination, the charging of fees which affect affordability of service and which impede the ability of a customer to switch to a less expensive supplier.

CAUSE-PA and OCA support, as stated by witnesses Miller and Colton, continued compliance with the universal service and consumer protection sections of the Choice Acts and Commission CAP policies and the approval of the consumer protections which PECO proposes within its Plan that the supplier must agree to become a CAP supplier, not discriminate among CAP customers, and charge CAP customers no more than PECO's PTC rates. (CAUSE-PA CAP Shopping Statement No. 1 at 14:7-13; and, OCA ST. NO. CAP-1 AT 17-19.)

E. PECO's Plan requires a clear and articulated method to monitor compliance.

In his direct testimony, Mr. Miller notes that PECO fails to indicate the process by which it will ensure compliance with program principles and the requirements which are established for CAP suppliers. He concludes that it appears that PECO is simply requiring a promise by the supplier that it will adhere to the articulated principles. As conceived by PECO, there are no checks built into the system and no assurance that PECO will monitor or audit these transactions. Mr. Miller considers this to be a significant failing of the Plan and that the Commission should not approve it without a contractual requirement of each "CAP approved" supplier to adhere to the principles articulated by PECO, accompanied by a monitoring plan by PECO, and contractual penalties for non-compliance. (CAUSE-PA CAP Shopping Statement No.1 at 11:16-23.) In response, PECO through witnesses Crowe and McCawley assert that the Commission and not PECO is the appropriate entity to ensure EGS compliance with the Plan."(PECO ST No. 1-R at 3:16, PECO ST 2-R 9:17-21.)

CAUSE-PA submits that responsibility for, as well as the manner and information available for monitoring must be more specifically addressed by the Commission prior to Plan approval. It is submitted that although the Commission will retain the ultimate monitoring and enforcement responsibilities, PECO will continue to have responsibility for administering its CAP and its CAP shopping Plan. Those responsibilities will not cease upon the Commission approving a shopping plan. For example one of PECO's CAP shopping principles is the obligation to "maintain consumer protections for CAP customers." This principle is an obligation which will continue to be borne by PECO as administrator of its CAP program after the shopping plan is effective. CAUSE-PA supports shopping requirements that each CAP customer who shops is to be provided rates below the price to compare, not discriminated against, nor charged any early termination fee. These are important CAP customer protections which may make the difference for many households to be able to afford and maintain continued electric service. Because of their importance, in order to be certain that they become reality, there needs to be monitoring and enforcement. Mr. Miller proposed that PECO, as the CAP program administrator, is the appropriate entity to fulfill that role and that it is incumbent upon the Commission to also monitor PECO's plan. He concluded that both PECO and the Commission have a role. (CAUSE-PA CAP Shopping Statement No. 1-SR at 2:6-19.)

In addition CAUSE-PA agrees with OCA witness Colton that to the extent that an EGS engages in the market to serve CAP customers, that EGS becomes responsible for providing sufficient data for PECO to be able to report the impacts on participation on universal service (OCA ST CAP-1R 10:10-13.) Furthermore, CAUSE-PA supports the OCA position that the PUC should retain the right to publish in aggregated format information on CAP customer shopping participation, the impact on universal service as a result of CAP customer shopping, and should

maintain the discretion to determine on a case by case basis whether or not the EGS reports provided may be discoverable. (OCA ST CAP-1R 10:7-11:9)

At a minimum, CAUSE-PA submits that all parties will benefit from a clear understanding of the EGS reporting requirements and which entity will be responsible for monitoring and ensuring compliance of the CAP Shopping plan and its component parts. It is respectfully submitted that the Commission clarify its expectations about EGS reporting and the monitoring and enforcement obligations it expects PECO to undertake.

F. CAP shopping cost recovery should be borne by the supplier, not recovered within a single year and should not be considered as universal service program costs to be recovered within the universal service rider.

PECO proposes to share the costs of implementing the CAP Shopping Plan equally between residential consumers and EGSs; to recover those costs entirely within one year; and to collect those costs through the Company's Universal Service Rider. The OCA objects to these proposals. Witness Colton proposes instead that: (a) the with the exception of education costs if capable of being segregated and separately collected through the Customer Education Charge, the cost of the Shopping Plan be borne by the companies benefitting from the adoption of a CAP shopping Plan i.e. the EGS as a cost of doing business (OCA ST No CAP-1 at 29:20-29:5); (b) that if, over OCA objections, ratepayer cost recovery is adopted, an amortization period of from three to five years be utilized (OCA ST No CAP-1 at 29:11-15); and, (c) that the universal service rider costs be borne solely by participating EGSs and that regardless of who is ultimately determined to bear the cost and in what proportion, that the definition and purposes of Universal Services are set by statute and that the costs related to implementation of this purpose do not apply, (OCA ST No CAP-1 at 29:19-31:6.)

CAUSE-PA supports the positions taken by OCA rejecting those specific aspects of PECO's proposed cost sharing methodology. The development of a shopping plan which enables

an EGS to obtain customers in the competitive electric market is neither a universal service function nor a responsibility of residential ratepayers. It is clearly a function intended to promote shopping and which the EGS is the ultimate business beneficiary. The EGS alone should bear the cost.

G. Aggregation is an option that may be incorporated into the Plan.

CAUSE-PA witness Miller proposed that PECO implement CAP customer shopping through a CAP customer aggregation program which is structured to ensure that affordability and other consumer protections are maintained. (CAUSE-PA CAP Shopping Statement No. 1 at 12:6-7.) As Mr. Miller explained, this approach has advantages for all involved. First, it would allow CAP customers to get the benefits of the competitive retail market's lower energy prices while eliminating the difficulties which individual consumers encounter such as sorting through the multiple product offerings of numerous generation suppliers, maintaining vigilance over price changes, and determining how the change to a competitive supplier would affect their CAP benefits and consumer protections. Second, suppliers would benefit through a reduction in their customer acquisition costs. Further, the aggregation of approximately 140,000 customers should provide sufficient load certainty to interested suppliers and, because of the purchase of receivables program, suppliers would have little risk of uncollectible expenses. Finally, other ratepayers would benefit from this structure because they would not be subject to paying the costs of the CAP program that are defined by the individual shopping choices of CAP customers, but rather through a competitive process designed to ensure sufficient cost protection and certainty. (CAUSE-PA CAP Shopping Statement No. 1 at 13:17-14:5.)

OCA witness Colton responded that prior to approving a retail aggregation program such as that proposed by Mr. Miller, that the Commission would need to address and resolve a

number of “substantial” hurdles. (OCA ST No CAP-1R at 16-23.) Mr. Colton indicated that an opt-out aggregation plan would appear to conflict with section 2807 (d) (1) of the Public Utility Code, suggested that the fact that the CAP population is not a stable entity but one that has considerable turn-over from year to year and within each year creates practical administrative concerns, and that there is insufficient detail provided, including the need to address potential risks and protections for default customers.

CAUSE-PA agrees that there are logistical challenges to work through but submits that those challenges exist regardless of the CAP shopping platform that is ultimately implemented and which may be overcome. Mr. Miller highlighted a number of ways to address OCA’s concerns (CAUSE-PA CAP Shopping Statement No. 1-SR at 4-6) and indicated that he would be amenable to a variety of different models that accomplish the goals and ensure the principles outlined in throughout his testimony. In sum, retail aggregation should continue to be within the panoply of options explored to enable CAP customer shopping.

IV. CONCLUSION

CAUSE-PA respectfully submits that based upon the evidence and testimony presented, the Commission adopt the arguments and the positions presented within and determine that PECO’s CAP shopping Plan must:

1. Maintain consumer protections of CAP customers;
2. Ensure that CAP customers pay no more than what they would have paid had they remained on default service;
3. Ensure that CAP bills remain affordable;

4. Ensure that CAP customers not pay additional fees or surcharges for participating in PECO's CAP shopping plan, including but not limited to early termination fees;
5. Ensure that both PECO and the Commission effectively monitor the experiences of CAP customers enrolled in this program to guarantee that the program requirements are fully met; and,
6. Contain the costs of the plan to protect residential consumers who pay for CAP.

Respectfully submitted,

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