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August 9, 2013

VIA E-FILING

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

On behalf of FirstEnergy Solutions Corp., enclosed for electronic filing is the *Reply Brief of FirstEnergy Solutions Corp.* Copies of the Reply Brief have been served in accordance with the attached Certificate of Service.

Very truly yours,

Brian J. Knipe

Enclosures

cc: The Honorable Cynthia Williams Fordham
Amy M. Klodowski, Esq.
Certificate of Service

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the parties, listed below, in accordance with the requirements of 52 Pa. Code §1.54 (relating to service by a party), via email (where applicable) and/or first-class mail.

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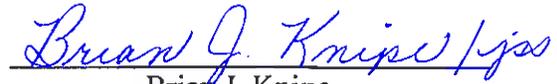
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Dated: August 9, 2013


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**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) :

**REPLY BRIEF OF
FIRSTENERGY SOLUTIONS CORP.**

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I. INTRODUCTION

FirstEnergy Solutions Corp. (“FES”) hereby submits this Reply Brief in accordance with the procedural schedule adopted by Administrative Law Judge Cynthia Williams Fordham by Order dated June 14, 2013 in this proceeding. As FES explained in its Prehearing Memorandum, it is a licensed electric generation supplier (“EGS”) authorized to serve all categories of retail customers throughout the Commonwealth,¹ and has actively participated in the default service proceeding of PECO Energy Company (“PECO”) at Docket No. P-2012-2283641 (“DSP II”).

In this Reply Brief, FES will respond to two arguments advanced by PECO in its Main Brief, both of which relate to PECO’s incorrect claim in its Main Brief that its proposal to allow customers in its Customer Assistance Program (“CAP”) to shop for electric generation supply from EGSs by January 1, 2014 (the “CAP Shopping Plan”) qualifies as a “retail market enhancement.” First, PECO uses this flawed premise to contend the costs of its CAP Shopping Plan should be recovered in part from EGSs, through a purchase of receivables (“POR”) discount, in the same manner as PECO’s recently approved Standard Offer Referral Program. PECO M.B. at 19. To the contrary, PECO’s CAP Shopping Plan would not “enhance” retail competition, but would merely remove a longstanding barrier to customer choice and competition for which PECO itself is responsible. PECO cannot be allowed to allocate costs to EGSs, through a POR discount, based on the flawed premise that its CAP Shopping Plan is another “retail market enhancement.”

Second, PECO proposes to require EGSs who choose to serve CAP customers in PECO’s service territory to charge a price for competitive generation supply that is equal to or less than PECO’s price-to-compare (“PTC”) at all times. In its Main Brief, PECO attempts to justify this

¹ Docket No. A-110078.

proposed price ceiling by likening it to limitations the Pennsylvania Public Utility Commission (“Commission”) has previously imposed on EGS pricing in the context of Commission-sponsored retail market enhancement programs. PECO M.B. at 14. Again, PECO’s proposed CAP Shopping Plan is not a retail market enhancement program or Commission-designed and sponsored program. Rather, PECO is proposing normal, everyday shopping by individual customers. Regulation of prices of competitive generation service like PECO proposes exceeds the Commission’s authority, 66 Pa. C.S. §§ 2802(14), 2806(a), and is bad policy.

II. ARGUMENT

A. **PECO’s CAP Shopping Plan Is Not a “Retail Market Enhancement” and Does Not Merit a Similar Method of Cost Recovery**

FES strongly disagrees with PECO’s troubling characterization of its CAP Shopping Plan as a “retail market enhancement.” PECO M.B. at 19. PECO makes this characterization in connection with its proposal to recover 50% of CAP Shopping Plan implementation costs (exclusive of customer education costs) through a 0.1% increase to its discount on EGS receivables purchased through PECO’s POR program, with the remaining half of such costs recovered from all residential customers through PECO’s Universal Service Fund Charge. PECO M.B. at 20. To justify this method of cost recovery, PECO argues that its CAP Shopping Plan is a “retail market enhancement” like its Standard Offer Program. PECO M.B. at 19. In DSP II, the Commission approved a similar allocation of costs of the Standard Offer Program and the use of a 0.2% POR discount for the EGS share of costs. *Petition of PECO Energy Co. for Approval of its Default Service Program*, Docket No. P-2012-2283641 (Order entered February 14, 2013). PECO contends that a similar allocation of costs and use of a POR discount is appropriate for its CAP Shopping Plan.

However, PECO is not proposing a retail market enhancement, but is merely eliminating a longstanding *barrier* to customer choice and competition, for which PECO itself is responsible.² PECO should have always allowed its CAP customers to shop, and should not shift to EGSs the costs of removing barriers to competition that PECO erected. Other Pennsylvania electric distribution companies (“EDCs”) have allowed CAP customers to shop for years, and FES is not aware that these EDCs have ever attempted to require EGSs to pay for these customers’ ability to shop.

Throughout DSP II and the Commission’s Retail Markets Investigation, the Commission heard many arguments, from FES and other EGSs, as to why the use of a POR discount to recover the costs of retail market enhancement programs is bad policy and why the use of a POR discount should be limited to the purpose of the POR program.³ The Commission nevertheless allocated half of the costs of retail market enhancement programs to EGSs, based on its belief that EGSs, like customers, are “beneficiaries” of retail market enhancement programs. *See, e.g., Investigation of Pennsylvania's Retail Electricity Market: Intermediate Work Plan*, Docket No. I-2011-2237952 (Final Order entered March 2, 2012) at 85. PECO’s CAP Shopping Plan,

² While Direct Energy unfortunately refers to the CAP Shopping Plan as “another market enhancement,” Direct Energy recognizes the CAP Shopping Plan as an unfinished part of PECO’s late 90s restructuring process. Direct Energy M.B. at 13

³ The purpose of the discount in PECO’s POR program is to recover the costs of implementing the POR program, as explained in the Joint Petition for Partial Settlement submitted in proceedings concerning PECO’s revised electric POR program:

9. Except as provided below, PECO’s Revised Electric POR filing is approved as filed, including the tariff revisions which are shown in Exhibits 1 and 2 to this Joint Petition, and all costs of implementing the Revised Electric POR Program (including the modifications and additions set forth below) will be recovered through the Program’s *temporary* discount on purchased EGS receivables.

Petition of PECO Energy Company for Approval of its Revised Electric Purchase of Receivables Program, Docket No. P-2009-2143607 (Opinion and Order entered June 18, 2010), at 6 (quoting Joint Petition for Partial Settlement) (emphasis added).

however, is not a “retail market enhancement program” and does not deserve the same treatment.⁴ Accordingly, PECO should recover its costs of removing its own barriers to CAP customer shopping from all PECO residential customers, instead of through its POR discount.

B. PECO’s Proposal to Impose a Ceiling on the Price of Competitive Generation Service to CAP Customers Is Inappropriate and Exceeds the Commission’s Authority

PECO proposes to require EGSs who serve CAP customers in PECO’s service territory to charge a rate for generation service that is equal to or lower than PECO’s PTC for the duration of the customer’s generation service contract. PECO M.B. at 8, 13-14. Since PECO’s PTC changes quarterly, and will continue to change quarterly even if PECO’s request for annual Generation Service Adjustment reconciliation is approved, this proposal will largely limit EGSs to offering variable priced products to CAP customers. In its Main Brief, PECO likens this aspect of its proposal to limitations the Commission has imposed on EGS pricing in the context of Commission-sponsored retail market enhancement programs. PECO M.B. at 14.

PECO’s comparison is flawed. PECO’s proposed CAP Shopping Plan is not a retail market enhancement program or Commission-sponsored program in which EGSs serving Residential customers in the PECO service territory can choose to participate. As explained above, PECO is simply removing a longstanding barrier to customer choice and competition. The removal of this barrier will result in natural shopping by individual customers, no different than shopping by other residential customers. PECO’s proposal would have the Commission regulate prices of competitive generation services, which is bad policy and exceeds the Commission’s authority. 66 Pa. C.S. §§ 2802(14), 2806(a). Therefore, PECO’s proposed

⁴ Indeed, PECO believes CAP shopping will result in significant benefits to PECO’s non-CAP customers through reductions to the Universal Service Fund Charge. PECO M.B. at 22.

restriction on EGS pricing of offers to CAP customers should be rejected. PECO's CAP customers should be permitted to choose among EGS offers like other residential customers.

III. CONCLUSION

For the reasons explained above, FirstEnergy Solutions Corp. respectfully requests that the Petition of PECO Energy Company for Approval of Its Customer Assistance Program Shopping Plan be granted with modifications consistent with FirstEnergy Solutions Corp.'s recommendations in this Reply Brief.

Respectfully submitted,

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