

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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April 9, 2014

Rosemary Chiavetta, Secretary  
PA Public Utility Commission  
Commonwealth Keystone Bldg.  
400 North Street  
Harrisburg, PA 17120

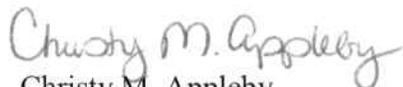
RE: Petition of PECO Energy Company for Approval of  
Its Default Service Plan for the Period from June 1,  
2015 through May 31, 2017  
Docket No. P-2014-2409362

Dear Secretary Chiavetta:

Enclosed please find the Office of Consumer Advocate's Prehearing Memorandum in the above-captioned proceeding.

Copies have been served upon all parties of record as shown on the attached Certificate of Service.

Sincerely,

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

Enclosures

cc: Honorable Cynthia W. Fordham  
Certificate of Service

\*181247

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of PECO Energy Company	:	
For Approval of its Default Service	:	
Program for the Period Service Program	:	Docket No. P-2014-2409362
For the Period from June 1, 2015 Through	:	
May 31, 2017	:	

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PREHEARING MEMORANDUM  
OF THE  
OFFICE OF CONSUMER ADVOCATE

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Pursuant to Section 333 of the Public Utility Code, 66 Pa. C.S. § 333, and the April 3, 2014 Prehearing Conference Order, the Office of Consumer Advocate (OCA) provides the following information:

**I. Introduction**

On March 10, 2014, PECO Energy Company (PECO or the Company) filed its Petition for Approval of its Default Service Plan for the Period from June 1, 2015 through May 31, 2017 (DSP III or the Program) pursuant to 66 Pa.C.S. § 2807(e) of the Pennsylvania Public Utility Code, the Default Service Regulations of the Pennsylvania Public Utility Commission (Commission), and the Commission’s Policy Statement on Default Service. PECO seeks approval for its default service program and procurement plan for the period of June 1, 2015 through May 31, 2017.

PECO proposes to acquire supply for residential customers by procuring the mix of laddered one-year and two-year full requirements products, with six months of spacing between the start of the contract delivery periods, a long-term product, and some spot purchases. Petition at ¶¶ 13-14. PECO proposes to purchase approximately 96% of its residential customer supply

through the laddered one- and two year-full requirements products with the remaining 4% of default service supply for residential customers from the mix of long-term products and spot purchases. Petition at ¶ 14. The winning bidders for the default service supply contracts will also be responsible for transferring Tier I and Tier II Alternative Energy Credits (AECs) to PECO in order to meet PECO's requirements of the Alternative Energy Portfolio Standards Act (AEPS) associated with the amount of default service load served by that supplier. Id. at ¶ 29-30.

The plan for residential default service will be for a two year duration, starting on June 1, 2015 and ending on May 31, 2017. Petition at 1. No supplier will be permitted to provide more than fifty percent (50%) of the default service supply for any one of PECO's procurement classes. Id. at ¶ 26.

PECO has proposed to continue the existing DSP II Contingency Plan in the event that one or more tranches are not fully subscribed through the procurement process, or in the event that a winning bidder defaults prior to the time for delivery. For those tranches, PECO will assume the responsibility for any tranches that are unfilled in default service supply. Petition at ¶ 31. Any unfilled tranches will be procured from PJM-administered markets for energy, capacity and ancillary services. PECO will obtain sufficient AECs at market prices to satisfy the near-term obligations under the AEPS Act. Id. PECO proposes that if the default occurs within a reasonable time before a scheduled procurement, the unfilled tranches will be included in PECO's next scheduled procurement. Id. at ¶ 32. Alternatively, PECO will file a plan with the Commission regarding alternative procurement options and a request for approval of the plan on an expedited basis. Id.

PECO proposes to modify its rate design and cost recovery mechanism. To recover the costs for serving residential customers, PECO proposes to continue adjusting its Generation Supply Adjustment (GSA) on a quarterly basis. For the over-and under-collection component of the GSA reconciliation mechanism, PECO proposes to change from a quarterly reconciliation to a semi-annual reconciliation for residential customers. Id. at ¶ 35.

PECO's filing proposes to continue the Standard Offer Program and to commence several new programs including a Seamless Moves Program, Instant Connect Program, and allow new customer account number access for EGSs. Petition at ¶¶ 38-39.

The Petition was assigned to the Office of Administrative Law Judge and was further assigned to Administrative Law Judge Cynthia Williams Fordham for the investigation and scheduling of hearings. On March 17, 2014, ALJ Fordham issued an Initial Prehearing Conference Notice and scheduled the Prehearing for Thursday, April 10, 2014 at 2 p.m. On April 3, 2014, ALJ Fordham issued the Prehearing Conference Order in the matter.

The OCA filed an Answer to the Company's Petition and a Notice of Intervention and Public Statement on April 1, 2014. On March 27, 2014, Next Era Energy Power Marketing, LLC and the Philadelphia Area Industrial Energy Users Group (PAIEUG) respectively filed Petitions to Intervene. On March 28, 2014, the Office of Small Business Advocate (OSBA) filed its Notice of Intervention, Public Statement and Notice of Appearance. On April 1, 2014, FirstEnergy Solutions Corp, Direct Energy, LLC, the Retail Energy Supply Association (RESA), Noble Americas Energy Solutions, LLC, and PECO Energy Suppliers Group (PSEG) respectively filed Petitions to Intervene. On April 1, 2014, the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA) filed a Petition to Intervene and Answer.

The OCA submits this Prehearing Memorandum in accord with the Prehearing Conference Order in this matter.

## **II. Issues and Sub-issues**

Based upon a preliminary analysis of the Company's Petition, the OCA has compiled a list of issues that it anticipates will be included its investigation of PECO's Default Service Plan. It is anticipated that other issues will arise and may be pursued as discovery proceeds.

The OCA has identified several issues that may require further review as follows:

(1) Default Service Program Term and Supply Portfolio: The OCA will examine whether the proposed laddered one year and two year mix of full requirements products, long-term products, and spot market purchases will provide the least cost over time for residential default service customers as required by the Commission's regulations and Act 129. The OCA intends to examine the type and mix of resources, as well as the procurement methodologies to ensure that the products and the plan are designed to meet the requirements of Act 129 and provide the least cost reliable supply, taking into account price stability for customers over time.

(2) Competitive Bid Solicitation Process and Independent Evaluator: PECO proposes to solicit bids for default service supply beginning in February 2015, before the end of DSP II, and extend over the DSP III term to avoid problems associated with procuring significant amounts of supply at a single point in time when prices may be highest. The OCA will examine the Company's proposed RFP and solicitation process to ensure that the contracts are procured in the most effective manner in compliance with the Commission's regulations.

(3) Consistency with Regional Transmission Organization Requirements: The OCA will review the proposed procedures to ensure that potential suppliers meet all technical and regulatory requirements as necessary under PJM's rules.

(4) AEPS Compliance: PECO proposes that it will satisfy its Alternative Energy Portfolio Standards Act (AEPS Act) obligations by requiring each full requirements default supplier to transfer Tier I and Tier II alternative energy credits (AECs) to PECO. The AEC credits will correspond to PECO's AEPS obligations associated with the amount of default service load supplied by that supplier. The OCA will examine this methodology to determine whether it produces the lowest reasonable cost for alternative energy credits and whether it appropriately supports the development of the alternative resources required under the AEPS Act. The treatment of any AECs that the Company receives for existing energy efficiency and demand response programs will also be examined.

(5) Contingency Plans: The OCA will review the Company's Contingency Plan to ensure that adequate and reliable supply is procured at the least cost over time in the event that the Contingency Plan is implemented.

(6) Rate Design and Cost Recovery: PECO proposes to continue to adjust the cost of generation supply on a quarterly basis, but the GSA reconciliation mechanism will change from a quarterly reconciliation to a semi-annual reconciliation for the over-and under-collection component for residential customers. PECO also proposes "limited tariff changes" related to the recovery of costs incurred by PECO to implement additional retail market enhancements directed by the Commission and the costs associated with the retail opt-in program suspended during DSP II. Finally, PECO also proposes to request full and current cost recovery of all DSP III costs incurred in light of the Commission's End State Order and possible changes to the default service model. The OCA submits that the details of these proposals should be carefully examined to ensure that they are consistent with Act 129, the Public Utility Code, applicable regulations and sound ratemaking principles.

(7) Standard Offer Program: PECO proposes to continue the DSP II Standard Offer Program and to continue the cost recovery mechanism established in the DSP II Program. The OCA submits that the DSP II Standard Offer Program results should be carefully examined to determine whether any modifications to the program are necessary. The proposed cost recovery for the Standard Offer Program should also be reviewed.

(8) Seamless Moves/Instant Connect Program: PECO plans to implement the Seamless Moves program by June 1, 2015 pursuant to the Commission's End State Order. In its Plan, PECO proposes to develop a new Electronic Data Interchange move transaction to allow the acceptance of an EGS customer enrollment request on a "pending active" customer account. PECO avers that this will allow EGSs to begin service on the new account seamlessly on the start date. As part of this program, customers will also be able to select a new EGS when they establish a new account. At the time of set up, PECO will provide the new customer with a new account number and shopping information. As part of this process, upon selection and with eleven days' notice, the EGS can then submit an enrollment transaction using the Seamless Moves program. The OCA submits that the details of the proposals and the costs of the proposals should be examined.

(9) Customer Account Number Access for EGSs: PECO also proposes to enhance its existing passcode-protected Supplier Choice Energy Systems Solution (SUCCESS) website portal to add a feature that will allow EGSs to submit account number requests when the information is not available from the customer or PECO's Eligible Customer List (ECL) such as at a public location or community event. Once the request is received, PECO will deliver the file back

to the EGS with an appended response tailored to the search results for the individual file inquiry. The OCA submits that the proposal should be carefully reviewed to determine whether it is reasonably designed to protect consumer privacy and whether it is consistent with the Public Utility Code and applicable regulations and Commission Orders.

### **III. Witnesses**

The OCA intends to present the direct, rebuttal, and surrebuttal testimony, as may be necessary, of Mr. Richard Hahn and Ms. Barbara Alexander. The OCA's witnesses will present testimony in written form and will also attach various exhibits, documents, and explanatory information which will assist in the presentation of the OCA's case. In order to expedite the resolution of this proceeding, the OCA requests that copies of all interrogatories, testimony and answers to interrogatories be mailed directly to the OCA witness at the below address, as well as mailing a copy to counsel for the OCA.

Richard Hahn  
LaCapra Associates  
One Washington Mall  
9<sup>th</sup> Floor  
Boston, MA 02108  
Telephone: (617) 778-5515  
Fax: (617) 778-5528  
E-mail: [rhahn@lacapra.com](mailto:rhahn@lacapra.com)

Barbara R. Alexander  
83 Wedgewood Drive  
Winthrop, ME 04364  
Telephone: (207) 395-4143  
Fax: (207) 395-4143  
E-mail: [barbalex@ctel.net](mailto:barbalex@ctel.net)

The OCA specifically reserves the right to call additional witnesses, as necessary. As soon as the OCA has determined an additional witness or witnesses will be necessary for any portion of its case, the OCA will notify Administrative Law Judge Fordham and all parties of record.

#### **IV. Discovery**

Because the time period for discovery and preparation of testimony is limited, the OCA supports a shortened discovery response time in this proceeding, consistent with the modifications approved in the prior PECO DSP proceedings and numerous other default service proceedings. The OCA, therefore, requests the following modifications to the discovery regulations:

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

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

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

D. Answers to motions to dismiss objections and/or direct the answering of interrogatories be filed within three (3) calendar days of service of such motions.

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

F. Requests for admission be 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 p.m. on a Friday or the day before a holiday, the response period will be deemed to start on the next business day.

**V. Service on the OCA**

The OCA will be represented in this case by Candis A. Tunilo and Christy M. Appleby, Assistant Consumer Advocates. Two copies of all documents should be served on the OCA as follows:

Christy M. Appleby  
Candis A. Tunilo  
Assistant Consumer Advocates  
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5<sup>th</sup> Floor, Forum Place  
555 Walnut Street  
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[ctunilo@paoca.org](mailto:ctunilo@paoca.org)

**VI. Settlement**

The OCA is willing to engage in settlement discussions on the issues.

**VII. Proposed Schedule**

The OCA proposes the following procedural schedule:

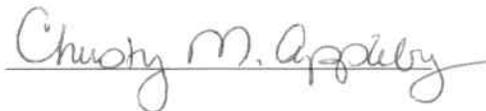
Prehearing Conference	April 10, 2014
Other Parties' Direct Testimony	June 5, 2014
Rebuttal Testimony	June 26, 2014
Surrebuttal Testimony	July 9, 2014
Hearings (with Oral Rejoinder)	July 15-17, 2014
Main Brief	August 5, 2014
Reply Brief	August 19, 2014

The OCA will continue to work with ALJ Fordham and the parties to develop a mutually agreeable procedural schedule.

### VIII. Public Input Hearings

At present, the OCA has not received any requests for public input hearings in this matter. The OCA will make prompt notification to ALJ Fordham and all parties of record and request a public input hearing should sufficient consumer interest in one arise.

Respectfully Submitted,



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DATE: April 9, 2014  
181408.doc

CERTIFICATE OF SERVICE

Re: Petition of PECO Energy Company for Approval of Its Default Service Plan for the  
Period from June 1, 2015 through May 31, 2017  
Docket No. P-2014-2409362

I hereby certify that I have this day served a true copy of the foregoing document,  
the Office of Consumer Advocate's Prehearing Memorandum, upon parties of record in this  
proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a  
participant), in the manner and upon the persons listed below:

Dated this 9th day of April 2014.

SERVICE BY E-MAIL & INTER-OFFICE MAIL

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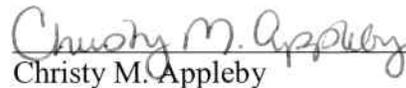
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