

August 5, 2014

**VIA ELECTRONIC FILING**

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2<sup>nd</sup> Floor  
P.O. Box 3265  
Harrisburg, PA 17105-3265

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

Dear Secretary Chiavetta:

Enclosed on behalf of Noble Americas Energy Solutions LLC (“Noble”) please find its Initial Brief in the above-captioned matter. Copies of the Initial Brief are being served upon the persons and in the manner set forth on the attached certificate of service. Should you have any questions, please do not hesitate to contact me.

Very truly yours,

THOMAS, NIESEN & THOMAS, LLC

By



Charles E. Thomas, III

Encl.

cc: Honorable Cynthia Williams Fordham (w/encl.)  
Certificate of Service (w/encl.)  
Becky Merola (w/encl.)

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

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**INITIAL BRIEF  
OF  
NOBLE AMERICAS ENERGY SOLUTIONS LLC**

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Charles E. Thomas, III, Esq.  
PA Attorney ID # 201014  
THOMAS, NIESEN & THOMAS, LLC  
212 Locust Street, Suite 600  
P.O. Box 9500  
Harrisburg, PA 17108-9500  
(717) 255-7600  
cet3@tntlawfirm.com

*Counsel for  
Noble Americas Energy Solutions LLC*

DATED: August 5, 2014

## **I. INTRODUCTION AND PROCEDURAL HISTORY**

This proceeding concerns the petition of PECO Energy Company (“PECO”) filed on March 10, 2014 with the Pennsylvania Public Utility Commission (“Commission”) seeking approval of its third Default Service Program (“DSP III”) to establish terms and conditions under which PECO will acquire and supply default service for the period from June 1, 2015 through May 31, 2017. PECO requested Commission approval of its DSP III by December 2014.

On April 10, 2014, a Prehearing Conference was convened before presiding Administrative Law Judge Cynthia Williams Fordham, at which time a procedural schedule was established and other preliminary matters were discussed. On April 14, 2014, Judge Fordham issued Prehearing Order #2 confirming the procedural schedule adopted at the prehearing conference and granting the petitions to intervene filed by the various parties, including Noble Americas Energy Solutions LLC (“Noble”).<sup>1</sup>

In accordance with the procedural schedule, direct testimony was submitted by various intervening parties on June 5, 2014. Rebuttal testimony was filed on June 26, 2014, and surrebuttal testimony was filed on July 9, 2014. Noble did not submit any testimony in the proceeding, but reserved its right to participate in all other aspects of the proceeding, including the submission of briefs and other pleadings authorized under the Commission’s regulations. An evidentiary hearing was held on July 17, 2014 in Philadelphia.

Noble submits this Initial Brief in accordance with the briefing schedule established by Prehearing Order #2 and the common briefing outline approved by Judge Fordham on July 24, 2014. Noble limits the discussion in its Initial Briefs to matters related to cost recovery of

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<sup>1</sup> In addition to Noble, Judge Fordham also granted intervention to Next Era Energy Power Marketing, LLC.; the Philadelphia Area Industrial Energy Users Group; First Energy Solutions Corp.; Direct Energy Services, LLC; the Retail Energy Supply Association; Interstate Gas Supply; the PECO Energy Suppliers Group; and the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania. The Office of Consumer Advocate and the Office of Small Business Advocate also intervened in the matter.

certain PJM charges (Section III.C.) in connection with the rate design and cost recovery proposed by PECO’s DSP III. Noble takes no position with respect to the other issues presented in PECO’s DSP III or raised in this proceeding at this time.

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**III. RATE DESIGN AND COST RECOVERY**

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**B. Recovery of Certain PJM Charges**

Noble’s principal area of interest with respect to the rate design and cost recovery of PECO’s DSP III relates to the collection and recovery of certain PJM transmission charges, *viz.* Network Integration Transmission Service (“NITS”) charges. Presently, Electric Generation Suppliers (“EGS”) are responsible for NITS charges as Load Serving Entities (“LSE”). Noble supports PECO’s proposal under its DSP III, as filed, which would continue to require LSEs, such as EGSs, to maintain responsibility for PJM charges assigned to LSEs.<sup>2</sup> Such an approach is consistent with PECO’s present practice under its existing default service plan.<sup>3</sup>

RESA advocates a proposal which would require PECO to assume responsibility for collecting and recovering certain non-market based charges, including NITS, from shopping and non-shopping customers. RESA argues that transferring PJM costs from LSEs to PECO is warranted because the future amount of those cost items are unpredictable and unknown and, thus, EGSs cannot hedge the associated risks.<sup>4</sup> Costs should, therefore, be recovered from all distribution customers through a non-bypassable rider to PECO’s tariff.<sup>5</sup>

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<sup>2</sup> PECO St. No. 2-R at 17.

<sup>3</sup> *Id.*; Initial Hearing Transcript (July 17, 2014) (“Tr.”) at 57.

<sup>4</sup> RESA St. No. 1 at 17-18.

<sup>5</sup> *Id.*

Despite RESA's contentions, NITS costs are manageable. On cross-examination at the initial evidentiary hearing, PECO witness John McCawley explained that charges for NITS, from PECO's experience, are extremely predictable from year to year and that "if someone were to buy and try to predict what their NITS costs would be for a particular customer, my bet is they could lock it into the penny for a year."<sup>6</sup> Noble submits that a customer's ability to manage its NITS costs enables the customer and their supplier to effectively manage their load obligations and allows for further development of product and service offerings in the marketplace which provide a meaningful benefit to retail electric service customers regardless of size.

Noble also cautions that retail electric contracts, particularly contracts with large commercial and industrial customers, can often carry three (3) year terms. By adopting a proposal similar to RESA's which would change the way in which non-market based charges, like NITS, are currently handled, existing contracts could be adversely impacted. Moreover, any attempt to divide customers up by volume with respect to the treatment of NITS would be very problematic in terms of settlements with PJM, which does not recognize any artificial division of load.

Accordingly, Noble recommends that the status quo be maintained such that LSEs, including licensed EGSs, continue to maintain responsibility for their own NITS costs. Should the Commission, however, adopt an approach which would socialize these PJM transmission charges into a non-bypassable distribution charge, Noble submits that the entire load should be moved to a non-bypassable charge for ISO settlement purposes.

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<sup>6</sup> Tr. at 58-59.

V. **OTHER ISSUES**

Noble reserves the right to respond in its Reply Brief to positions taken and arguments raised by the other parties on any other issues relevant to this proceeding.

VI. **CONCLUSION**

For the foregoing reasons, Noble Americas Energy Solutions LLC respectfully requests that Administrative Law Judge Cynthia Williams Fordham issue a Recommended Decision granting the Petition of PECO Energy Company for approval of its third Default Service Program consistent with the limited recommendations stated herein.

Respectfully submitted,



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Charles E. Thomas, III, Esq.  
PA Attorney ID # 201014  
THOMAS, NIESEN & THOMAS, LLC  
212 Locust Street, Suite 600  
P.O. Box 9500  
Harrisburg, PA 17108-9500  
(717) 255-7600  
cet3@tntlawfirm.com

*Counsel for  
Noble Americas Energy Solutions LLC*

DATED: August 5, 2014

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

**CERTIFICATE OF SERVICE**

I hereby certify that I have this 5<sup>th</sup> day of August, 2014, served a true and correct copy of the foregoing document upon the persons and in the manner set forth below:

Email and First Class Mail, Postage Prepaid

Anthony E. Gay, Esq.  
Romulo L. Diaz, Esq.  
W. Craig Williams, Esq.  
Exelon Business Services Company  
2301 Market Street, S23-1  
P.O. Box 8699  
Philadelphia, PA 19101-8699  
[Anthony.Gay@exeloncorp.com](mailto:Anthony.Gay@exeloncorp.com)  
[Romulo.Diaz@exelongcorp.com](mailto:Romulo.Diaz@exelongcorp.com)  
[Craig.Williams@exeloncorp.com](mailto:Craig.Williams@exeloncorp.com)

Christy M. Appleby, Esq.  
Candis A. Tunilo, Esq.  
Lauren M. Burge, Esq.  
Office of Consumer Advocate  
555 Walnut Street  
Forum Place, 5<sup>th</sup> Floor  
Harrisburg, PA 17101-1923  
[cappleby@paoca.org](mailto:cappleby@paoca.org)  
[ctunilo@paoca.org](mailto:ctunilo@paoca.org)  
[lburge@paoca.org](mailto:lburge@paoca.org)

Thomas P. Gadsden, Esq.  
Kenneth M. Kulak, Esq.  
Brooke E. McGlinn, Esq.  
Morgan, Lewis & Bockius, LLP  
1701 Market Street  
Philadelphia, PA 19103-2921  
[tgadsden@morganlewis.com](mailto:tgadsden@morganlewis.com)  
[kkulak@morganlewis.com](mailto:kkulak@morganlewis.com)  
[bmcglinn@morganlewis.com](mailto:bmcglinn@morganlewis.com)

Daniel Clearfield, Esq.  
Deanne M. O'Dell, Esq.  
Sarah C. Stoner, Esq.  
Eckert Seamans Cherin & Mellott, LLC  
213 Market Street, 8th Floor  
Harrisburg, PA 17101  
[dclearfield@eckertseamans.com](mailto:dclearfield@eckertseamans.com)  
[dodell@eckertseamans.com](mailto:dodell@eckertseamans.com)  
[sstoner@eckertseamans.com](mailto:sstoner@eckertseamans.com)

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

Johnnie E. Simms, Esq.  
Bureau of Investigation and Enforcement  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
P.O. Box 3265  
Harrisburg, PA 17105-3265  
[josimms@pa.gov](mailto:josimms@pa.gov)

David P. Zambito, Esq.  
Cozen O'Connor  
305 N. Front Street, Suite 400  
Harrisburg, PA 17101-1236  
[dzambito@cozen.com](mailto:dzambito@cozen.com)

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

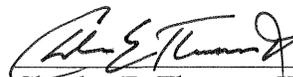
Charis Mincavage, Esq.  
Adeolu A. Bakare, Esq.  
McNees Wallace & Nurick LLC  
100 Pine Street  
P.O. Box 1166  
Harrisburg, PA 17108-1166  
[cmincavage@mwn.com](mailto:cmincavage@mwn.com)  
[abakare@mwn.com](mailto:abakare@mwn.com)

Patrick M. Cicero, Esq.  
Harry S. Geller, Esq.  
Pennsylvania Utility Law Project  
118 Locust Street  
Harrisburg, PA 17101  
[pulp@palegalaid.net](mailto:pulp@palegalaid.net)

Aundrea Williams  
NextEra Energy, Inc.  
801 Pennsylvania Ave., N.W. - #220  
Washington, DC 20004  
[aundrea.williams@nexteraenergyservices.com](mailto:aundrea.williams@nexteraenergyservices.com)

Thomas J. Sniscak, Esq.  
Todd S. Stewart, Esq.  
Hawke McKeon & Sniscak LLP  
100 N. Tenth Street  
P.O. Box 1778  
Harrisburg, PA 17105-1778  
[tjsniscak@hmslegal.com](mailto:tjsniscak@hmslegal.com)  
[tsstewart@hmslegal.com](mailto:tsstewart@hmslegal.com)

Michael A. Gruin, Esq.  
Stevens & Lee  
17 N. Second Street, 16<sup>th</sup> Floor  
Harrisburg, PA 17101  
[mag@stevenslee.com](mailto:mag@stevenslee.com)



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Charles E. Thomas, III (PA ID # 201014)