

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PETITION OF PECO ENERGY :
COMPANY FOR APPROVAL OF ITS :
DEFAULT SERVICE PROGRAM FOR : **DOCKET NO. P-2014-2409362**
THE PERIOD FROM JUNE 1, 2015 :
THROUGH MAY 31, 2017 :

**STATEMENT OF PECO ENERGY COMPANY
IN SUPPORT OF THE JOINT PETITION FOR PARTIAL SETTLEMENT**

August 28, 2014

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I. INTRODUCTION

On August 28, 2014, PECO Energy Company (“PECO” or the “Company”), the Office of Consumer Advocate (“OCA”), the Office of Small Business Advocate (“OSBA”), the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (“CAUSE-PA”), NextEra Power Marketing, LLC (“NEPM”) and the Retail Energy Supply Association (“RESA”) (collectively, the “Joint Petitioners”) filed with the Pennsylvania Public Utility Commission (the “Commission”) a Joint Petition For Partial Settlement (“Joint Petition”) of all but two issues in the above-captioned proceeding. The issues reserved for litigation involve the procurement plan for PECO’s Medium Commercial Class (including whether default service for Medium Commercial customers should be priced on an hourly basis) and whether the Company should assume certain PJM Interconnection, L.L.C. (“PJM”) charges for all customer load and recover those costs on a non-bypassable basis. The Joint Petition sets forth the factual background and procedural history of this case. This Statement in Support (the “Statement”) is filed pursuant to Paragraph 64 of the Joint Petition.

The settlement set forth in the Joint Petition (the “Settlement”) was reached after an extensive investigation by the parties of PECO’s proposed Default Service Program for the period June 1, 2015 to May 31, 2017 (“Original DSP III Proposal”), which included substantial

discovery, the submission of direct, rebuttal and surrebuttal written testimony and an evidentiary hearing. In addition, over a period of several weeks, the parties engaged in discussions and negotiations about the terms of the Settlement.

PECO is in full agreement with each of the reasons the Joint Petitioners stated the Settlement is in the public interest. In this Statement, following a summary of the Settlement, PECO offers additional reasons why the Settlement is in the public interest and should be approved.

II. SUMMARY OF THE SETTLEMENT

In the Original DSP III Proposal, PECO proposed to continue most of the existing plans and programs approved by the Commission in PECO's second default service proceeding ("DSP II").¹ Under the Settlement, PECO's Default Service Program ("Revised DSP III") is generally consistent with many features of the Original DSP III Proposal. As originally proposed, PECO's Revised DSP III will have a two-year term, beginning June 1, 2015 and ending May 31, 2017, and PECO's default service customers will remain divided into the same four procurement classes approved by the Commission in the DSP II Orders: the Residential Class, the Small Commercial Class, the Medium Commercial Class, and the Large Commercial and Industrial Class.

For the Residential Class, PECO will continue to procure a mix of one-year and two-year fixed-price full requirements ("FPFR") products and transition to a procurement design in which approximately 96% of the supply is in the form of one-year and two-year FPFR products, with six month spacing between the commencement of contract delivery periods. During the Revised

¹ On October 12, 2012, the Commission approved PECO's DSP II with certain modifications and also directed PECO to submit new proposals for various elements of its proposed retail market enhancements. *See Petition of PECO Energy Co. for Approval of Its Default Serv. Program II*, Docket No. P-2012-2283641 (Order entered October 12, 2012). In response, PECO made a series of compliance filings (December 11, 2012; February 28, 2013; and April 15, 2013), which were approved by a Secretarial Letter issued January 25, 2013, an Order entered February 14, 2013, and an Order entered June 13, 2013, respectively (collectively, the "DSP II Orders").

DSP III period, the remaining approximately 4% of Residential Class supply currently obtained through a five-year block product expiring on December 31, 2015 and associated spot market purchases will be replaced by 17-month FPCR products (for approximately 3.2% of Residential default service load) and spot purchases directly from the energy markets operated by PJM (for approximately 1% of Residential default service load). PECO will procure no other block energy products after expiration of its existing block energy contract. The Small Commercial Class load will continue to be supplied by one-year full requirements products, each laddered with six-month spacing between procurements. Finally, with respect to the Large Commercial and Industrial Class, PECO will continue to solicit hourly-priced contracts for full requirements products for all default service supply.²

Each of the contracts for the Residential and Commercial Classes will be procured through a competitive sealed-bid process approximately two months prior to delivery of energy under the contract, with hourly-priced contracts for the Large Commercial and Industrial Class procured annually. Under the Settlement, Joint Petitioners agreed to move default service supply procurements scheduled in January/February of 2015 and 2016 to March 2015 and 2016. In order to facilitate selection and transfer of PJM Auction Revenue Rights (“ARRs”) to wholesale default service suppliers under the revised schedule, PECO is permitted to employ a consultant for ARR analysis and selection. The costs of the consultant and any associated financial outcome from PECO’s ARR selection (whether positive or negative) will be passed through PECO’s Generation Supply Adjustment (“GSA”) charge to default service customers in each class consistent with the ARR assigned to suppliers, provided that the portion of consultant costs allocated to Residential customers shall not exceed \$25,000 per year.

² As previously explained, the Joint Petitioners agreed that the issue of procurement of Medium Commercial default service supply, including but not limited to whether Medium Commercial default service should be priced on an hourly basis, is reserved for litigation. Joint Petition, ¶¶ 25-28.

PECO will continue utilizing the contingency plans approved in the DSP II Orders for unsuccessful procurements and wholesale supplier defaults, with one modification. Specifically, in the event that bids for six or more tranches of FPFR products solicited in a default service procurement for the Residential Class are not approved by the Commission (and, as a result, the residential load associated with those tranches would be served through spot-market purchases), PECO will file a plan with the Commission within fourteen business days of the rejection of bid results which proposes alternative options for procurement of the equivalent amount of default service supply from wholesale suppliers.

The Joint Petitioners also agreed on a form supplier master agreement (“SMA”), which is based on the latest draft of the uniform supplier master agreement (“Uniform SMA”) developed by the Commission’s Office of Competitive Market Oversight (“OCMO”) procurement collaboration working group, with one revision to the minimum credit ratings for issuers of irrevocable letters of credit (“LOCs”) to wholesale suppliers. The Joint Petitioners further reached agreement on other undisputed procurement-related issues, including compliance with Pennsylvania’s Alternative Energy Portfolio Standards (“AEPS”) Act, the appointment of NERA Economic Consulting, Inc. (“NERA”) as an independent third-party evaluator of PECO’s default service procurements, and continuation of procurement of all default service supply through a competitive sealed-bid Request for Proposals (“RFP”) process. In addition, the Joint Petitioners agreed upon limited tariff changes related to the recovery of retail market enhancement program costs as well as a rate design change to improve the reconciliation process under PECO’s GSA.³ Under the Settlement, over/under collections of default service charges for the Residential, Small

³ The issue of whether certain PJM charges should be recovered by PECO through a non-bypassable transmission charge is reserved for litigation. Joint Petition, ¶¶ 48-50. The Joint Petitioners agreed with PECO’s proposals regarding Unaccounted for Energy and meter error correction charges, and no other PJM charges (except for Network Integration Transmission Service (“NITS”) and related issues) will be litigated in this proceeding. *Id.*, ¶ 50.

Commercial and Medium Commercial Classes will be reconciled on a semi-annual basis instead of a quarterly basis.

PECO will continue its existing, Commission-approved Electric Generation Supplier (“EGS”) Standard Offer Program (“Standard Offer Program or “SOP”) for the Revised DSP III term, with conditions agreed to by the Joint Petitioners. In addition to implementing various minor operational changes recommended by RESA, PECO will revise its SOP call center scripts and other related documents to clarify that the SOP rate may be higher or lower than PECO’s Price-to-Compare (“PTC”) in the future. PECO will also revise its SOP request for proposals and rules (“SOP Rules”) to allow EGSs to participate on a per class basis. Finally, PECO will convene a stakeholder process to review potential improvements to the administration of the SOP that may enhance the customer experience, increase EGS participation and/or reduce the ongoing costs of the program.

III. THE SETTLEMENT IS IN THE PUBLIC INTEREST AND FULLY SATISFIES THE REQUIREMENTS OF THE COMPETITION ACT AND THE COMMISSION’S DEFAULT SERVICE REGULATIONS

Under the Electricity Generation Customer Choice and Competition Act, 66 Pa.C.S. § 2801 *et seq.* (the “Competition Act”), PECO, as a Pennsylvania electric distribution company (“EDC”) and default service supplier, has a fundamental obligation to provide competitively procured, reliable electric generation service to default service customers at least cost over time. 66 Pa. C.S. § 2807(e)(3.4). PECO’s Revised DSP III – its third default service program – contains all of the elements required by the Commission’s default service regulations (52 Pa. Code §§ 54.181 – 54.189) and its Policy Statement on Default Service (52 Pa. Code §§ 69.1801-69.1817), including implementation plans, procurement plans, contingency plans, rate design plans, and associated tariff pages.

As described in the Settlement and in this Statement, PECO's Revised DSP III is designed to obtain a competitively-procured "prudent mix" of contracts as required by the Public Utility Code. The type of FPFR contracts that PECO will procure for default service customer supply have already been approved by the Commission and are well-tested in the marketplace. PECO St. No. 3, p. 26. PECO's Revised DSP III default service portfolios, which build on the success of DSP I and DSP II, will continue to support the competitive retail market while providing customers with significant protection against changing market conditions and an appropriate degree of rate stability consistent with the objectives of the Competition Act. *See* PECO St. No. 3, pp. 21-28; PECO St. No. 3-R, pp. 10 & 12-13. Accordingly, and as described in detail below, PECO's Revised DSP III fully satisfies each of the requirements of the Competition Act and the applicable Commission regulations on default service and should be approved.

A. PECO's Procurement Classes Are Appropriate and in the Public Interest

The Commission's regulations (52 Pa. Code § 54.187) and Policy Statement (52 Pa. Code § 69.1805) provide that default service providers should design procurement classes based upon peak loads of 0-25 kW, 25-500 kW, and 500 kW and greater, but default service providers may propose to depart from these specific ranges, including to "preserve existing customer classes." *See* 52 Pa. Code § 69.1805. In the Settlement, the Joint Petitioners agree to PECO's original proposed procurement classes: the Residential Class, the Small Commercial Class, the Medium Commercial Class, and the Large Commercial and Industrial Class. Joint Petition, ¶¶ 15-19. Each procurement class is comprised of established rate schedules under PECO's tariff and reflects differences between the classes with respect to customer usage and shopping patterns. PECO's organization of customers into these four procurement classes reduces the potential that continuing increases in shopping in one customer group will lead to a higher default service price

for another customer group. PECO St. No. 2, p. 6. In order to implement the procurement classes under the Settlement, the Joint Petitioners have requested that, if necessary, the Commission grant PECO a waiver of the specific peak load class criteria in 52 Pa. Code § 54.187. Joint Petition, ¶ 62.

B. The Length of the Revised DSP III Procurement Plan Is Proper

The Commission's Default Service Policy Statement recommends that default service programs should be for a two-year period unless the Commission directs otherwise. *See* 52 Pa. Code § 69.1804. In the Settlement, consistent with DSP II and the Commission's Default Service Policy Statement, the Joint Petitioners agree to PECO's original proposed two-year term (June 1, 2015 to May 31, 2017), subject to defined procedures to accommodate future legislative changes to the default service model under the Competition Act. Specifically, in the event of the passage of legislation which has the effect of fundamentally changing the provision of default service in Pennsylvania (or the responsibilities of EDCs with respect to such service) in a manner that materially impacts the remainder of PECO's Revised DSP III, PECO will, within thirty business days of such legislation becoming law, confer with the Joint Petitioners. Joint Petition, ¶ 13. After obtaining the Joint Petitioners' input, PECO will, if necessary to comply with such law, petition the Commission for authorization to suspend or modify any procurement solicitation events scheduled, but not yet conducted, under PECO's Revised DSP III, or seek such other declaratory guidance as deemed appropriate by PECO, in order to implement the law. *Id.*, ¶ 14. In such event, PECO will seek input and approval from the Commission on the provision of default service for the remainder of the Revised DSP III term. *Id.*

The Revised DSP III term is reasonable because it provides flexibility to address new default service structures in the future while also protecting Residential and Small Commercial customers from risks associated with the procurement of a large amount of default service supply

during a short time period, which would be necessary if all supply contracts ended on May 31, 2017. PECO St. No. 3-R, pp. 15-16.

C. The Procurement Plan For The Residential Customer Class Is In The Public Interest

In its Original DSP III Proposal, PECO proposed to continue the procurement design established in DSP II and transition to a plan with 96% of the total portfolio comprised of a mix of one-year (40%) and two-year (60%) FPFRR contracts with delivery periods that overlap on a semi-annual basis. Under the Original DSP III Proposal, the remaining approximately 4% of Residential Class supply currently obtained through a five-year block product expiring on December 31, 2015 (with associated spot-market purchases) would be replaced by a 53-month FPFRR product (3%) and spot purchases (1%), and all block contracts from DSP I and DSP II would be eliminated. PECO St. No. 2, pp. 10-11; PECO St. No. 2-R, p. 3.

RESA proposed an alternative portfolio in which PECO's one- and two-year FPFRR contract mix would be transitioned during DSP III to an FPFRR contract mix with much shorter contract terms. Specifically, RESA proposed that PECO transition to a default service portfolio consisting of three-month contracts (40%), six-month contracts (22%), 9-month contracts (17%), twelve-month contracts (20%), and 24-month contracts (less than 2%). RESA St. No 1, pp. 3-4. The OCA generally supported PECO's proposed procurement plan for Residential customers. OCA St. No. 1, p. 7. However, the OCA recommended replacement of the five-year block contract expiring on December 31, 2015, with spot-market purchases from PJM instead of PECO's proposed 53-month FPFRR contract (and approximately 1% spot market purchases), asserting that suppliers will include an "excessive" risk premium in any 53-month product. *Id.* RESA agreed with the OCA that a 53-month contract will reflect a "significant" risk premium, and also opposed the 53-month product because its term will extend beyond May 31, 2017. *See* RESA St. No. 1-R, p. 15. In addition, the OCA opposed PECO's original proposed procurement

schedule. *See* OCA St. Nos. 1, pp. 9-10 & 1-S, pp. 4-5 (proposing to shift the timing of PECO's scheduled competitive residential supply procurements from February to March based on the OCA's view that procurements should not be held in January or February because those periods purportedly are the time of highest winter market prices).

In the Settlement, the Joint Petitioners agree to PECO's original proposed Residential Class portfolio with one revision. In particular, PECO's proposed 53-month FPFR product will be replaced with two 17-month FPFR contracts, which will be procured in the scheduled September 2015 procurements. Joint Petition, ¶¶ 20 & 32. The elimination of the 53-month contract from the supply portfolio and continuation of reliance on one- and two-year contracts instead of adopting RESA's alternative portfolio and its use of very short-term contracts represents a compromise between PECO, the OCA and RESA regarding the procurement design for the Residential Class.

PECO will procure all FPFR contracts, including those contracts for the Residential Class, in four separate procurements – March 2015, September 2015, March 2016 and September 2016 – in each instance approximately two months prior to delivery of the energy. *See* Joint Petition, ¶ 31 & Exh. A. In order to facilitate selection and transfer of PJM ARR to wholesale default service suppliers, the Joint Petitioners agree that PECO shall be permitted to employ a consultant for ARR analysis and selection, with limitations on the amount of associated costs recovered from Residential customers through the GSA. *See* Joint Petition, ¶ 31. The procurement schedule agreed to by the Joint Petitioners reflects a compromise between PECO and the OCA regarding the appropriate Spring procurement date to both maximize the ability of suppliers to effectively hedge potential congestion costs through participation in PJM's ARR/FTR processes and address the OCA's concerns regarding market prices in January and February. *Compare* PECO Initial Br., pp. 15-16; OCA Main Br., pp. 10-14.

This procurement design also resolves the parties' differences regarding the appropriate blend of supply resources to best serve the Residential Class. The Settlement adopts PECO's original proposal to continue its DSP II procurement strategy which has attracted robust, competitive participation in PECO's procurements, resulted in reasonable prices even during unexpected market events like the "Polar Vortex," and further expanded retail choice in PECO's service territory. PECO Initial Br., pp. 2-3, 13-14. The use of one- and two-year FPFR products will continue to provide an appropriate level of price stability, which the Commission is required to consider under the Competition Act.⁴ Finally, the Settlement is consistent with the Commission's recent approval of the FirstEnergy EDCs' third default service programs which included a residential customer portfolio comprised of equal shares of one-year and two-year full requirements contracts.⁵ The Residential Class procurement plan thus fully complies with the Competition Act's requirement to competitively procure a "prudent mix" of supply resources designed to ensure "adequate and reliable service" at the "least cost to customers over time." *See* 66 Pa.C.S. §§ 2807(e)(3.1), (3.2), (3.4).

D. The Procurement Plan For The Small Commercial Customer Class Is In The Public Interest

In its Original DSP III Proposal, PECO proposed to continue its DSP II procurement plan for Small Commercial customers using laddered one-year full requirements products, with six-month spacing between the commencement of contract delivery periods. PECO St. No. 2, pp. 12; PECO St. No. 3, p. 28. The only party to oppose PECO's proposal was RESA. *See* RESA St. No. 1, p. 16 (proposing a portfolio comprised initially of 75% twelve-month contracts and

⁴ *See* Final Order, *Implementation of Act 129 of October 15, 2008; Default Serv. and Retail Elec. Mkts.*, Docket No. L-2009-2095604 (October 4, 2011), p. 40.

⁵ Opinion and Order, *Joint Petition of Metropolitan Edison Co., Pennsylvania Electric Co., Pennsylvania Power Co. and West Penn Power Co. for Approval of their Default Serv. Programs*, Docket Nos. P-2013-2391368, P-2013-2391372, P-2013-2391375, and P-2013-2391378 (Order entered July 24, 2014) ("*FirstEnergy DSP III Order*"), pp. 8 & 22.

25% three-month contracts, and then escalating to 75% three-month contracts over the course of the Original DSP III Proposal term).

The Settlement adopts PECO's original proposed Small Commercial Class procurement plan. Joint Petition, ¶¶ 23-24. PECO will procure the FPFR products for Small Commercial customers in the same manner as the Residential Class (i.e., in March 2015, September 2015, March 2016 and September 2016). *See id.*, Exh. A. Like the Residential Class, the portfolio of FPFR products for Small Commercial customers constitutes a "prudent mix" of supply resources as required by the Competition Act. Continuation of laddered one-year full requirements products, consistent with DSP II, protects Small Commercial Customers from exposure to unnecessary price volatility. PECO Main Br., p. 17. The Commission should therefore approve the procurement plan for the Small Commercial Class set forth in the Settlement.

E. The Procurement Plan For The Large Commercial and Industrial Customer Class Is In The Public Interest

The Settlement adopts PECO's original proposal to continue to procure hourly-priced full requirements products annually for all default service supply for the Large Commercial and Industrial Class. Joint Petition, ¶¶ 29-30 & Exh. A. While RESA supported PECO's proposal to continue its Commission-approved procurement plan for Large Commercial and Industrial customers, it recommended quarterly procurements to facilitate its separate proposal to migrate Medium Commercial customers to hourly pricing, which is reserved for litigation. RESA St. No. 1, p. 22 & 1-SR, p. 13. The Settlement both complies with the Competition Act's requirements and resolves differences between PECO and RESA regarding the frequency of Large Commercial and Industrial Class procurements.

F. The Settlement Establishes Reasonable Contingency Plans

In accordance with the Commission's regulations at 52 Pa. Code § 54.185(e)(5), the Settlement appropriately provides for continuation of PECO's contingency plans approved by the Commission in the DSP II Orders, with one modification. Under the Settlement, in the event that bids for six or more tranches of FPCR products solicited in a default service procurement for the Residential Class are not approved by the Commission (and, as a result, PECO expects to serve the portion of its Residential default service load associated with such tranches through PJM spot market purchases), PECO shall file a plan with the Commission within fourteen business days of the rejection of bid results which offers alternative options for procurement of the equivalent amount of default service supply from wholesale default service suppliers. Joint Petition, ¶ 36. This modification reflects a compromise between PECO and the OCA to address the OCA's concern about the amount of time that Residential customers could be supplied by spot market purchases under PECO's current contingency plans. *Compare* PECO Initial Br., pp. 22-23; OCA Main Br., pp. 16-18.

G. PECO's Form Of SMA As Revised By The Settlement Is In The Public Interest

The form SMA which suppliers will be required to execute is attached as Exhibit B to the Joint Petition. The only change to the SMA as originally proposed by PECO is in Section 6.7, which will now permit suppliers to use LOCs acceptable to PECO issued by a bank or other financial institution with a minimum "A-" senior unsecured debt rating (or, if unavailable, a corporate issuer rating discounted one notch) from Standard and Poor's and "A3" from Moody's. Joint Petition, ¶ 34. The minimum credit rating requirement agreed to by the Joint Petitioners is a reduction from PECO's original proposal to use the higher A/A2 requirements set forth in the Uniform SMA and reflects a compromise between PECO and NEPM, which had asserted that the Uniform SMA's creditworthiness requirements may limit the availability of LOCs for

wholesale suppliers and diminish participation in PECO's procurements. *Compare* PECO Initial Br., pp. 13-14; NEPM Initial Br., pp. 4, 6-7.

H. Other Procurement and Implementation Plan Requirements

The Settlement also includes agreement among the Joint Petitioners regarding other procurement and implementation plan components which were uncontested.

AEPS Compliance. Both the Competition Act and the AEPS Act require default service providers like PECO to obtain an increasing percentage of electricity sold to retail customers from alternative energy sources as measured by alternative energy credits ("AECs"). *See* 66 Pa.C.S. § 2807(e)(3.6); 73 Pa.C.S. § 1648.1 *et seq.* Under the Settlement, as in DSP II, PECO will continue to require each full requirements default service supplier to transfer Tier I solar, Tier I non-solar, and Tier II AECs to PECO corresponding to PECO's AEPS obligations associated with the amount of default service load served by that supplier. Joint Petition, ¶ 41.

In addition, PECO will continue to allocate AECs obtained through its prior Commission-approved Tier I solar, Tier I non-solar, and Tier II procurements towards suppliers' AEPS obligations in accordance with each customer class and the percentage of load served by each supplier. PECO will retain a percentage of its AECs to meet the AEPS requirements associated with any default service customer load not supplied by full requirements contracts. PECO will also buy and sell AECs as required to meet AEPS requirements and manage its inventory of AECs obtained in prior procurements as previously authorized by the Commission. *Id.*, ¶ 42.

Independent Evaluator. The Commission's default service regulations provide that the competitive bid solicitation process shall be subject to monitoring by the Commission or an independent third party selected by a default service provider in consultation with the Commission. *See* 52 Pa. Code § 54.186(c)(3). The Joint Petitioners agree to the appointment of

NERA to continue as independent evaluator for PECO's default service procurements. Joint Petition, ¶ 39.

Competitive Sealed-Bid Process. The Commission's regulations require that a default service plan include copies of agreements to be used in the procurement of electric generation supply for default service customers, including SMAs and RFPs. 52 Pa. Code § 54.185(e)(6). In the Settlement, the Joint Petitioners agree to PECO's original proposal for a competitive, sealed-bid RFP process. Joint Petition, ¶ 21 & Exh. C. Consistent with Section 54.185(e)(4) of the Commission's regulations, suppliers will bid on "tranches" corresponding to a percentage of the actual default service customer load. Winning suppliers will be obligated to supply full requirements load-following service, which includes energy, capacity, ancillary services, and all other services or products necessary to serve a specified percentage of PECO's default service load in all hours during the supply product's delivery period.⁶ *Id.* As explained previously, the Joint Petitioners agree to the form SMA attached as Exhibit B to the Joint Petition. All procurements will be administered by NERA in accordance with the RFP documents set forth in Exhibit C to the Joint Petition and PECO Exh. No. CL-3, which are based on DSP II RFP documents that have yielded competitive outcomes. *See* PECO St. No. 4, pp. 7-16. Accordingly, the comprehensive RFP documents agreed to by the Joint Petitioners satisfy the Competition Act's requirements of a competitive procurement process, with prudent steps to negotiate favorable generation supply contracts and obtain contracts at least cost. 66 Pa.C.S. § 2807(e)(3.7).

Affiliate Relations. Under the Commission's default service regulations, affiliates of PECO are permitted to participate in the Company's competitive procurements for default

⁶ PECO remains responsible for all distribution services to its default service customers, as well as transmission costs for NITS and related transmission services that it will recover through its unbundled retail rates, subject to resolution of the issue reserved for litigation regarding assignment of responsibility for PJM bill charges.

service supply, *see* 52 Pa. Code § 54.186(b)(6), provided that appropriate protocols are in place to ensure that such affiliates do not receive an advantage in the competitive procurement and the competitive process complies with the Commission’s codes of conduct. The Commission has previously approved PECO’s SMA as an affiliated interest agreement and PECO is maintaining the same protocols and other protections in the Revised DSP III to be administered by the Independent Evaluator. *See* Exh. C; PECO St. No. 4, p. 16. Thus, pursuant to Section 2807(e)(3.1)(iii)(B) of the Competition Act, the Joint Petitioners have requested that the Commission approve the form SMA included as Exhibit B to the Joint Petition as an affiliated interest agreement as required under 66 Pa.C.S. § 2102. Joint Petition, ¶ 40.

I. The Settlement Continues PECO’s Commission-Approved Rate Design With An Improvement To The Reconciliation of Default Service Costs and Revenues

In its Original DSP III Proposal, PECO proposed to maintain its current rate design whereby PECO recovers default service costs from default service customers through a GSA charge, with one adjustment to the reconciliation process to improve price signals to customers. Consistent with the Public Utility Code and the Commission’s default service regulations, PECO proposed to continue to project and adjust default service rates for the Residential, Small Commercial and Medium Commercial Classes on a quarterly basis and for the Large Commercial and Industrial Class on a monthly basis. PECO St. No. 5, pp. 4-5. However, reconciliation of the over/under collection component of the GSA (known as the “E-Factor”) for the Residential, Small Commercial and Medium Commercial Classes would occur in DSP III on a semi-annual basis instead of a quarterly basis. *See id.* PECO also proposed limited tariff changes related to the recovery of costs incurred to implement any additional retail market enhancements directed by the Commission during DSP III, as well as costs associated with the retail opt-in program suspended by the Commission during DSP II. *Id.*, p. 7.

The OCA proposed that PECO adjust default service rates on a semi-annual instead of quarterly basis and also recommended a twelve-month rolling average E-Factor reconciliation performed twice per year on the same dates as overall rate adjustments. OCA St. No. 1, pp. 13-15. RESA, in turn, supported maintaining PECO's existing quarterly E-Factor reconciliation methodology on the ground that longer reconciliation periods would purportedly result in a PTC price signal that diverges further from the underlying supply costs. RESA St. No. 1-R, p. 4.

Subject to resolution of the reserved issues relating to migration of Medium Commercial customers to hourly pricing and the recovery of certain PJM charges, the Settlement adopts PECO's original proposed rate design. Under the Settlement, the Joint Petitioners agree that PECO shall be permitted to file the GSA and Reconciliation tariff pages set forth in Exhibits ABC-2 and ABC-3 to PECO Statement No. 5, as well as the supplier tariff pages set forth in Exhibits JJM-4 and JJM-5 to PECO Statement No. 2⁷ and those set forth in Exhibits ABC-6 and ABC-7 to PECO Statement No. 5, to become effective June 1, 2015.⁸ Joint Petition, ¶¶ 46-47.

The Settlement represents a compromise developed by the Joint Petitioners concerning the adjustment of PECO's default service rates and resolves the differences among PECO, the OCA and RESA on these issues. By using a semi-annual rather than quarterly schedule for the reconciliation of over/under collections for the Residential, Small Commercial and Medium Commercial Classes, fluctuations in default service prices will be smoothed out and result in

⁷ In its Original DSP III Proposal, as part of the EDC-specific section of the Uniform SMA, PECO proposed to allocate PJM meter error correction charges in the PECO PJM Zone during DSP III to all load serving entities ("LSEs") – default service suppliers and EGSs – as permitted by the PJM tariff, instead of requiring default service suppliers to continue to cover such costs. Because allocation of meter error correction charges (PJM bill line item 1250) to all LSEs in PECO's service territory requires agreement among all LSEs, PECO also proposed an amendment to its EGS Coordination Tariff, which requires EGSs to consent to the proposed allocation of those charges. See PECO St. No. 2, p. 17 & PECO Exhs. JJM-4 and JJM-5. The Joint Petitioners agreed to PECO's proposal, and meter error correction charges will not be included in any non-bypassable transmission service charge or litigated further in this proceeding. Joint Petition, ¶ 50.

⁸ PECO will address any Commission determinations regarding the collection of PJM bill charges via a non-bypassable transmission charge in a subsequent compliance filing.

clearer price signals for both customers and EGSs.⁹ PECO Initial Br, p. 35. While the Commission's regulations do not prescribe a time period for reconciliation adjustments, PECO believes that semi-annual reconciliation appropriately balances the Company's goal of mitigating volatility with the Commission's concern in the DSP II Orders about maintaining the Price-to-Compare ("PTC") as a price signal for customers and EGSs. PECO Initial Br., pp. 33-34. In order to implement the semi-annual schedule for E-Factor reconciliation under the Settlement, the Joint Petitioners have requested that, if necessary, the Commission grant PECO a waiver of the rate design provisions in 52 Pa. Code § 54.187. Joint Petition, ¶ 63.

The design of PECO's default service rates set forth in the Settlement fully complies with the Commission's default service regulations and the Public Utility Code. PECO's default service rates will continue to change quarterly for the Residential, Small Commercial and Medium Commercial Classes in accordance with the Competition Act (66 Pa.C.S. § 2807(e)(7)) and the Commission's regulations at 52 Pa. Code § 54.187(i) and (j).¹⁰ Joint Petition, ¶ 43. With respect to the Large Commercial and Industrial Class, the Commission's regulations at 52 Pa. Code § 54.187(k) require that default service rates for those customers be adjusted on at least a monthly basis. PECO's proposed hourly-priced default service product for the Large Commercial and Industrial Class complies with this requirement because rates will continue to change monthly. Joint Petition, ¶ 45.

⁹ If the Commission determines that Medium Commercial default service should be priced on an hourly basis, the default service rates for the Medium Commercial Class will include a monthly reconciliation component. To minimize the impact on the Price-to-Compare arising from the transition to a one-month (instead of six-month) reconciliation period, any over/undercollections associated with such transition may be refunded or recouped over several months.

¹⁰ In the event that interval meters are deployed to all Medium Commercial customers and the Commission directs that PECO implement and test billing and data management system changes necessary to implement hourly priced default service for Medium Commercial customers in accordance with Paragraph 26 of the Joint Petition, default service rates established under the GSA for the Medium Commercial Class will be established in the same manner as the rates for the Large Commercial & Industrial Class.

J. PECO's Revised DSP III Will Continue The Standard Offer Program Consistent With the Commission's Guidance

In its Final Order the Retail Market Investigation, the Commission observed that standard offer customer referral programs will “improve the overall operation of the competitive market in the near term.”¹¹ To that end, in its Original DSP III Proposal, PECO proposed to continue offering the Standard Offer Program during DSP III so that Residential and Small Commercial default service customers contacting PECO's customer service center will be encouraged to select among a group of EGSs who have voluntarily chosen to offer customers a twelve-month contract priced at least 7% below PECO's applicable PTC at the time of the offer. PECO St. No. 2, p. 19.

The OCA opposed continuation of the SOP pending a statewide evaluation of the 2013-2014 standard offer customer referral programs for all Pennsylvania EDCs and the adoption of reforms necessary to ensure that customers receive appropriate disclosures and benefits from those programs. OCA St. No. 2, pp. 4-5, 12-13. The OCA also recommended that PECO revise its SOP scripts to clarify that the SOP rate may be higher or lower than the PTC in the future and modify its Commission-approved SOP Rules to require EGSs who acquired SOP customers before the effective date of the Commission's new regulations at 52 Pa. Code § 54.10 promulgated in *Final-Omitted Rulemaking Order* to conform the content of their end of term notices and contract offers to those new regulations.¹² OCA St. No. 2, pp. 14-17. RESA recommended several operational changes to the SOP and that PECO hold collaborative meetings to investigate potential improvements to the program. RESA St. No. 1, pp. 28-31.

¹¹ See *Investigation of Pennsylvania's Retail Elec. Mkt.: End State of Default Serv.*, Docket No. I-2011-2237952 (Order entered February 15, 2013) (the “*End State Order*”), pp. 12-13.

¹² See *Final-Omitted Rulemaking Order, Rulemaking to Amend the Provisions of 52 Pa. Code, Section 54.5 Regulations Regarding Disclosure Statement for Residential and Small Business Customers and to Add Section 54.10 Regulations Regarding the Provision of Notices of Contract Expiration or Changes in Terms for Residential and Small Business Customers*, Docket No. L-2014-2409385 (entered April 3, 2014) (“*Final-Omitted Rulemaking Order*”).

Under the Settlement, PECO will continue its currently-effective SOP, including the cost recovery mechanisms approved in the DSP II Orders, until the earlier of: (1) six months following a Commission Order modifying the SOP as a result of a settlement reached through the stakeholder process outlined in Paragraphs 57-61 of the Joint Petition; (2) a Commission Order modifying the SOP as a result of a statewide investigation of standard offer customer referral programs; or (3) May 31, 2017. Joint Petition, ¶ 51. To address the OCA's concern regarding customers' understanding of the relationship of the SOP discount to the PTC, PECO will revise its SOP scripts to incorporate the specific disclosures outlined in Paragraph 53 of the Joint Petition.

The Settlement also adopts certain operational changes recommended by RESA. First, at the time each quarterly PTC is published, PECO will post the discounted SOP price to the Company's "SUCCESS" EGS website. Joint Petition, ¶ 52. Second, PECO will conduct quarterly briefings of PECO customer service representatives about presenting the SOP during customer contacts with PECO's call center. *Id.*, ¶ 56. PECO will also revise its SOP Rules to allow EGSs to participate in the program on a per-class basis, subject to specific conditions regarding the costs associated with this revision described in Paragraph 55 of the Joint Petition. Finally, PECO will hold at least three stakeholder meetings to review proposed improvements to the SOP that may enhance the customer experience, increase EGS participation and/or reduce the ongoing costs of the program. Additional detail regarding the stakeholder process is provided in Paragraphs 57 through 61 of the Joint Petition.

In sum, continuation of the SOP under the Settlement in the near term as envisioned by the Commission in the *End State Order* is in the public interest. This provision of the Settlement is also consistent with the Commission's recent finding that continuation of the FirstEnergy

EDCs' standard offer customer referral programs was beneficial to customers. *See FirstEnergy DSP III Order*, pp. 16-17, 22.

IV. CONCLUSION

For the reasons set forth above and in the Joint Petition, PECO's Revised DSP III embodied in the Settlement builds on the successful products and programs approved by the Commission in DSP II which will allow PECO to continue to meet its default service obligations and to further enhance the retail electric market. Moreover, the Settlement terms have been carefully designed to resolve in a reasonable fashion the issues and concerns that were raised by the testimony in this case without the need for additional costly litigation. Accordingly, the Settlement is in the public interest and should be approved without modification.

Respectfully submitted,



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