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October 30, 2014

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, Second Floor
Harrisburg, PA 17120

RE: PECO CAP Design Mediation Status Update, Docket No. M-2012-2290911

Dear Ms. Chiavetta:

The purpose of this letter is to inform the Commission that the participants in mediation in this docket have reached impasse without settling this matter. This letter also proposes a litigation schedule for this docket, which PECO proposes to initiate by filing its proposed new CAP design, with supporting testimony and exhibits, on December 5, 2014.

In the Commission's April 25, 2014 Secretarial Letter that sent this matter to mediation, the Commission stated that if the stakeholders were not able to fully resolve their differences through mediation, this matter would be sent to the Office of Administrative Law Judge for evidentiary hearings.

The stakeholders have conferred on a potential litigation approach and schedule. The schedule described below has been approved by the various stakeholders through Step 5, Briefs. In addition, PECO conferred with the presiding officer, Administrative Law Judge Cynthia Fordham, and the hearing dates proposed below are open on her calendar as well.

The stakeholders differ on the appropriate procedure after briefs. PECO believes that this matter can and should be sent to the Commission based on briefs and a certified record, while the low-income advocates recommend that the schedule should include a Recommended Decision, exceptions, and reply exceptions.

The following table sets forth the litigation schedule for the two approaches.

| | Certified Record | RD and Exceptions |
|-----------------------------------|-------------------------|--------------------------|
| (1) PECO CAP Design Proposal | Dec. 5, 2014 | Dec. 5, 2014 |
| (2) Rebuttal Testimony | Jan. 14 | Jan. 14 |
| (3) Reply Testimony | Jan. 30 | Jan. 30 |
| (4) Evidentiary Hearings | Feb. 12, 13, and 17 | Feb. 12, 13, and 17 |
| (5) Briefs | March 17 | March 17 |
| (6) Recommended Decision* | Not applicable | April 17 |
| (7) Exceptions | Not applicable | May 7 |
| (8) Reply Exceptions | Not applicable | May 18 |
| (9) Close of Record/Certification | March 18 | May 19 |
| (10) Commission Decision** | ~ May 18, 2015 | ~ July 19, 2015 |

* Thirty days allotted for Recommended Decision.

** In both approaches, the time for a Commission decision is estimated to be 60 days after the record closes.

PECO prefers the certified record alternative for the following reasons:

- The Commission used the certified record alternative in this docket when this matter was previously litigated in the first quarter of 2013.
- The issues have been deeply examined by the stakeholders and the Commission during nearly two years of litigation and mediation. PECO thus expects that the parties' briefs will provide sufficient detail and structure for Commission review, even without the additional aid of a Recommended Decision and exceptions/reply exceptions.
- PECO expects to propose extensive changes to its CAP design. PECO further expects to propose an October 2016 implementation date for the new program and estimates that the program changes will take approximately 18 months of IT work to implement. The certified record approach already presents a challenge to that implementation date, as it leaves only approximately 17 months between the expected Commission decision (May 18, 2015) and the proposed implementation date (October 2016). The Recommended Decision approach compounds that challenge, because it leaves only 15 months for the IT work – and perhaps even fewer than 15 months if the Commission process for issuing a Recommended Decision takes longer than the 30 days allotted above.

Sincerely,



Ward Smith
Counsel for PECO Energy Company

cc: (Via First Class Mail and/or email)

Cynthia Lehman, Commission Mediator
Administrative Law Judge Cynthia Fordham
Kim Hafner, Office of Administrative Law Judge
Grace McGovern, Bureau of Consumer Services
Joseph Magee, Bureau of Consumer Services
Louise Fink Smith, Law Bureau

Christy Appleby, Amy Hirakis, Candis Tunilo, Office of Consumer Advocate
Thu Tran, Rob Ballenger, Josie Pickens, Maripat Pillegi, Community Legal Services
Harry Geller, Elizabeth Marx, Pennsylvania Utility Law Project, on behalf of CAUSE-PA
Ron Cerniglia, Ashley Ramer, Direct Energy

Lauren Feldhake, Patricia King, Rich Schlesinger, Mark Kehl, Scott Neumann, PECO