

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Uniform Cover and Calendar Sheet

1. REPORT DATE: October 31, 2006	2. BUREAU AGENDA NO. OCT-2006-L-0074*
3. BUREAU: Law	
4. SECTION(S):	5. PUBLIC MEETING DATE: November 9, 2006
6. APPROVED BY: Director: B. Pankiw 7-5000 Mgr/Spvr: R. Young 7-4945 BCS Review: J. Hummel 3-9088. <i>JH</i>	
7. PERSONS IN CHARGE: J. McClintock 3-2811 <i>J.M.</i>	9. EFFECTIVE DATE OF FILING: N/A
8. DOCKET NO.: M-00041788, R-00027870	DOCUMENT FOLDER

10. (a) **CAPTION (abbreviate if more than 4 lines)**

Petition of PECO Energy Company for an Extension of Time to File Revised APPRISE Evaluation.

(b) **Short summary of history & facts, documents & briefs**

KJR

On August 18, 2006, PECO filed a petition requesting an extension of time to file the revised evaluation of the Company's universal service programs that was conducted by the Applied Public Policy Research Institute for Study and Evaluation ("APPRISE Evaluation"). PECO served the petition on the Office of Consumer Advocate and provided copies to the Bureau of Consumer Services and PECO's Universal Services Advisory Committee. No answers were filed in response to the petition. PECO has since filed its revised APPRISE Evaluation with the Commission on October 31, 2006.

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(c) **Recommendation**

The Law Bureau recommends approval of this proposed order, finding that PECO's petition for an extension of time to file the revised APPRISE Evaluation is dismissed as moot.

11. **MOTION BY:** Commissioner Chm. Holland

Commissioner Pizzigrilli - Yes
Commissioner Fitzpatrick - Yes
Commissioner

SECONDED: Commissioner Cawley

CONTENT OF MOTION: Staff recommendation adopted.



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE
REFER TO OUR FILE

November 14, 2006

M-00041788
R-00027870

BRIAN D CROWE
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DOCUMENT
FOLDER

Petition of PECO Energy Company for an Extension
of Time to File Revised APPRISE Evaluation.

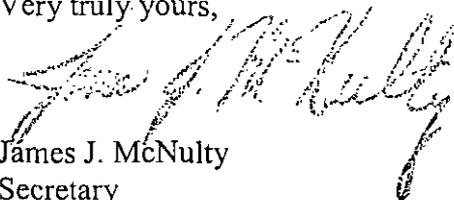
RJP

To Whom It May Concern:

This is to advise you that the Commission in Public Meeting on October 9, 2006 adopted an Order in the above entitled proceeding.

An Order has been enclosed for your records.

Very truly yours,


James J. McNulty
Secretary

encls
cert. mail
MH

KENT D MURPHY
ASSISTANT GENERAL COUNSEL
EXELON BUSINESS SERVICES COMPANY
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SEP 13 2007

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PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265

Public Meeting held November 9, 2006

Commissioners Present:

Wendell F. Holland, Chairman
James H. Cawley, Vice Chairman
Kim Pizzingrilli
Terrance J. Fitzpatrick

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Petition of PECO Energy Company for an
Extension of Time to File Revised APPRISE
Evaluation.

M-00041788
R-00027870

ORDER

DOCKETED
SEP 13 2007

BY THE COMMISSION:

On August 18, 2006, PECO Energy Company ("PECO") filed the instant petition requesting an extension of time to file the revised evaluation of the Company's universal service programs that was conducted by the Applied Public Policy Research Institute for Study and Evaluation ("APPRISE Evaluation"). PECO served the petition on the Office of Consumer Advocate ("OCA") and provided copies to the Commission's Bureau of Consumer Services ("BCS") and PECO's Universal Services Advisory Committee. No answers were filed in response to the petition.

PECO has since filed its revised APPRISE Evaluation on October 31, 2006, and, as such, is currently in compliance with 66 Pa. C.S. §§ 2802(10) and 2804(9). Accordingly, we hereby dismiss PECO's petition as moot.

Introduction and Background

On December 3, 1996, the Electricity Generation Customer Choice and Competition Act ("Act"), 66 Pa. C.S. §§ 2801-2812, was enacted. In opening up the electric generation market to competition, the General Assembly was concerned about ensuring that electric service remained universally available to all customers in the Commonwealth. The Act, therefore, includes several provisions relating to electric universal service.

The Act defines "universal service" as the policies, protections and services that help low-income customers maintain their electric service.

66 Pa. C.S. § 2803. The term includes customer assistance programs and usage reduction programs. Section 2802(10) requires that "the Commonwealth must, at a minimum, continue the protections, policies and services that now assist customers who are low-income to afford electric service." 66 Pa. C.S. § 2802(10). The Act also requires the Commission to ensure that universal service programs assist low-income customers in affording electric service and that these programs are appropriately funded and available in each electric distribution territory. 66 Pa. C.S. § 2804(9).

To help meet its obligations under the Act, the Commission established standard *Universal Service and Energy Conservation Reporting Requirements*. 52 Pa. Code §§ 54.71-54.78. Section 54.74 of these regulations requires an Electric Distribution Company ("EDC") to submit to the Commission for approval an updated universal service and energy conservation plan ("universal service plan") every three years. These regulations also require an EDC to have an independent third-party conduct an impact evaluation of its universal service and energy conservation programs and to provide a report of findings and recommendations to the Commission and the EDC. 52 Pa. Code § 54.76.

Pursuant to the Commission's regulations at 52 Pa. Code § 54.76, during January 2003 PECO submitted to BCS the Evaluation of PECO Energy Universal Service Program ("evaluation") completed by H. Gil Peach & Associates, an independent program evaluator. In accordance with the universal service reporting requirements, PECO submitted its universal service plan to the Commission on January 29, 2004. By order entered April 21, 2004 at Docket No. M-00041788, the Commission determined that PECO's universal service plan did not consistently conform with the requirements at 66 Pa. C.S. § 2802(10) and § 2804(9) that universal service programs assist low-income customers to afford electric service or with the Customer Assistance Program ("CAP") Policy Statement at 52 Pa. Code § 69.265(2)(i)(A-C). Multiple sources of data supported the Commission's determination, including the Commission's informal complaint data and data from the evaluation findings.

To address the problems of unaffordable CAP rate budgets, PECO submitted a petition in 2002 for Commission approval of consensus modifications to PECO's universal service program and associated tariff changes ("consensus modifications").¹ The Commission approved the consensus modifications by order entered April 8, 2003 at Docket No. R-00027870. As part of the consensus modifications approved at Docket No. R-00027870, PECO was required to submit an evaluation of its universal service programs to the Commission no later than May 1, 2006. *See* Order, Docket No. M-00041788, p. 7. As part of that evaluation, an independent evaluator was to determine if PECO's program

¹ As a result of numerous meetings and consideration of the H. Gil Peach & Associates Evaluation, PECO and the Low-income usage reduction program ("LIURP") Advisory Committee developed a mutually satisfactory consensus agreement ("consensus modifications") concerning the necessary modifications to be made to PECO's universal service program. The LIURP Advisory Committee members included the OCA, the Consumer Education and Protective Association (CEPA), the Association of Community Organizations and Reform Now (ACORN), the Tenants Action Group (TAG), the Action Alliance of Senior Citizens (Action Alliance), the Pennsylvania Utility Law Project (PULP), the Utility Emergency Service Fund (UESF), and the Pennsylvania Department of Public Welfare (DPW).

payments comply with the CAP Policy Statement. The findings from the independent evaluation, combined with consideration of both historical universal service program data and the results of the Commission's review of relevant informal complaints, were to aid the Commission in determining if PECO's revised CAP payment plan complied with the intent of 66 Pa. C.S. § 2802(10) and § 2804(9).

Pursuant to the Commission's order at Docket No. M-00041788, PECO retained APPRISE to conduct the independent third-party evaluation. APPRISE provided PECO with its final evaluation report in April 2006, and PECO subsequently provided the report to the Commission's BCS. According to PECO's petition, while APPRISE was able to complete its analysis of most of PECO's universal service programs, it was unable to complete its analysis of the Special Needs component of PECO's CAP rate program, which is comprised of its CAP Rates A, B, and C. APPRISE explained to PECO that it was unable to complete the Special Needs analysis because a program must exist for a sufficient length of time in order to generate meaningful data. Since the Special Needs component was not implemented until March, 2004, there was not sufficient data available to conduct the evaluation.

Specifically, pages iii-iv of the APPRISE report executive summary explained the following:

The PUC also directed PECO to separately address how their CAP served customers with income below 50 percent of the [federal poverty level] FPL. To better meet the needs of this population, PECO implemented three new CAP rates in February 2004. CAP Rate A provides a \$12 or \$30 (depending on whether the customer uses electric heat) monthly bill to special needs customers with income less than or equal to 25 percent of the FPL. CAP Rate B provides an 85 percent discount to customers with income less than or equal to 25 percent of the FPL. CAP Rate C provides a 75

percent discount to customers with income between 26 and 50 percent of the FPL.

By March 2005, one year after program implementation, PECO had enrolled 3,433 customers in CAP Rate B and 10,207 in CAP Rate C. A full year of program implementation is necessary to conduct a proper evaluation of these new rates, so that the analysis does not only examine the first enrollees, and so that there are enough participants to evaluate. A full year of post-enrollment billing and payment behavior due to the cyclical nature of earnings and energy assistance is necessary. Therefore, billing and payment data through March 2006 are necessary to conduct the evaluation of those below 50 percent of poverty served by PECO's new CAP tiers.

APPRISE has submitted a data request and analysis schedule to PECO for the Below 50 Percent Evaluation. This schedule requires that PECO deliver additional billing and payment data to APPRISE by May 2006. Given this schedule, a report with additional analysis of CAP customers with income below 50 percent of the FPL should be delivered in September 2006. PECO has stated that they are committed to this additional evaluation research.

PECO provided the additional requested billing and payment data to APPRISE. APPRISE advised PECO that the revised evaluation would be delivered in October 2006. PECO filed the revised APPRISE Evaluation of its universal service programs on October 31, 2006.

Discussion

In the instant petition, PECO requests an extension of time, until October 31, 2006, to file the revised APPRISE Evaluation of its universal service programs. In support of its petition, PECO states that it timely complied with the Commission's April 24, 2004 order directing it to file an evaluation of its universal service programs by May 2006. However, data was not available to allow a full evaluation of the portions of the program, including the Special Needs component of the CAP Rate Program, that were implemented in approximately March 2004. PECO avers that the absence of data concerning the Special Needs

component was due to the need for the program to be in existence for a certain period of time in order to generate meaningful data, and not due to any nonfeasance by PECO or APPRISE. PECO notes that it continued to enroll customers in the Special Needs component of its universal service program while the evaluation was being completed. As such, PECO states that customers would not have been prejudiced due to an extension of time for the completion of the evaluation.

Initially, we note that PECO's request for an extension of time to file the revised APPRISE Evaluation of its universal service programs was reasonable because APPRISE was unable to timely complete the Special Needs analysis since the program did not exist for a sufficient amount of time in order to generate meaningful data. However, after filing this petition, PECO has since filed its revised APPRISE Evaluation on October 31, 2006. As such, PECO is currently in compliance with 66 Pa. C.S. §§ 2802(10) and 2804(9). Accordingly, we find that PECO's petition is moot²; **THEREFORE,**

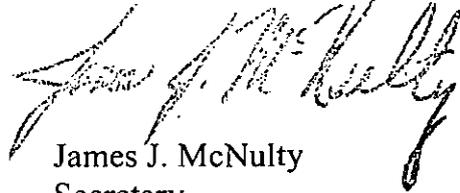
IT IS ORDERED:

1. That PECO's petition requesting an extension of time to file the revised APPRISE Evaluation of its universal service programs is hereby dismissed as moot.

² Pennsylvania courts have consistently held that a case is moot unless an actual case or controversy exists at all stages of the judicial or administrative process. *See Sierra Club v. Pennsylvania Pub. Util. Comm'n*, 702 A.2d 1131, 1134 (Pa. Cmwlth. 1997); *Cytemp Specialty Steel Div., Cyclops Corp. v. Pennsylvania Pub. Util. Comm'n*, 563 A.2d 593, 596 (Pa. Cmwlth. 1989).

2. That the Secretary is directed to close this docket.

BY THE COMMISSION,



James J. McNulty
Secretary

(SEAL)

ORDER ADOPTED: November 9, 2006

ORDER ENTERED:

NOV 14 2006