



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
Office of Administrative Law Judge
P.O. BOX 3265, HARRISBURG, PA 17105-3265
June 26, 2007

IN REPLY PLEASE
REFER TO OUR FILE

In Re: P-00072260

(SEE LETTER DATED 5/8/07)

Petition of PECO Energy Company

Cancellation Notice

This is to inform you of the following cancellation:

Type: Initial & Further Hearing
Date: Wednesday, July 11, 2007
Time: 10:00 a.m.
Presiding: Administrative Law Judge Marlane R. Chestnut

Please mark your records accordingly.

pc: Judge Chestnut
Stacy Nolan, Scheduling Officer
Beth Plantz
Docket Section
Calendar File

**DOCUMENT
FOLDER**

DOCKETED
JUN 29 2007



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

IN REPLY PLEASE
REFER TO OUR FILE

June 29, 2007

Hon. Marlane R. Chestnut
Administrative Law Judge
Pennsylvania Public Utility Commission
Room 1302, Philadelphia State Office Building
1400 West Spring Garden Street
Philadelphia, PA 19130

ORIGINAL
DOCUMENT
FOLDER

Re: *Petition of PECO Energy Company for Approval of (1) A Process to Procure Alternative Energy Credits During the AEPS Banking Period and (2) A Section 1307 Surcharge and Tariff to Recover AEPS Costs;*
Docket No. P-00072260

Dear Judge Chestnut:

Please be advised that the Office of Trial Staff will not be filing a Main Brief in the above-captioned proceeding. However, OTS reserves the right to file a Reply Brief in response to the issues raised by other parties should the circumstances warrant us doing so.

If you have any questions or concerns, please contact me.

Sincerely,

Robert V. Eckenrod
Prosecutor
Attorney I.D. No. 84889

cc: Parties of Record

SECRETARY'S BUREAU

2007 JUN 29 AM 8:26

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of PECO Energy Company for :
Approval of (1) A Process to Procure :
Alternative Energy Credits During the : Docket No. P-00072260
AEPS Banking Period and (2) A Section :
1307 Surcharge and Tariff to Recover :
AEPS Costs :

2007 JUN 29 AM 8:26
SEAL - P-00072260

CERTIFICATE OF SERVICE

I hereby certify that I am serving the foregoing **Correspondence**, dated
June 29, 2007, either personally, by first class mail, electronic mail, express mail and/or
by fax upon the persons listed below:

Sharon Webb, Esquire
Lauren M. Lepkoski, Esquire
Office of Small Business Advocate
Suite 1102, Commerce Building
300 North Second Street
Harrisburg, PA 17101

Richard P. Mather, Esquire
Scott Perry, Esquire
Dept of Environmental Protection
Rachel Carson State Office Bldg
400 Market Street 9th Floor
Harrisburg, PA 17101-2301

Tanya J. McCloskey, Esquire
Christy M. Appleby, Esquire
Office of Consumer Advocate
555 Walnut Street
5th Floor Forum Place
Harrisburg, Pa 17101-1923

George Jugovic, Jr., Senior Attorney
Citizens for Pennsylvania's Future
425 Sixth Avenue Ste 2770
Pittsburg, PA 15219

Adrian D. Newall, Esquire
Counsel for PECO Energy Company
2301 Market Street S23-1
Philadelphia, PA 19103

Eric Epstein
4100 Hillsdale Road
Harrisburg, PA 17112

Roger E. Clark
Sustainable Development Fund
718 Arch Street Ste 300 North
Philadelphia, PA 19106-1591

John Hanger
PennFuture
610 N. Third Street
Harrisburg, PA 17101

Philip Bertocci, Esquire
Community Legal Services, Inc.
1424 Chestnut Street 4th Floor
Philadelphia, PA 19102

David M. Kleppinger, Esquire
Charis Mincavage, Esquire
McNees Wallace & Nurick LLP
100 Pine Street
Harrisburg, PA 17108

Daniel Clearfield, Esquire
Kevin Moody, Esquire
Wolf Block Schorr & Solis-Cohen LLP
213 Market Street 9th Floor
PO Box 865
Harrisburg, PA 17108-0865

Paul E. Russell, Esquire
PP&L Services Corporation
Two North Ninth Street
Allentown, PA 18101

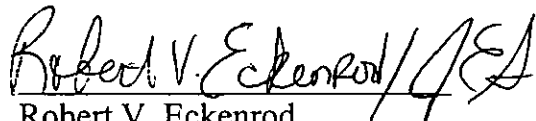
Maureen Mulligan
PV Now
33 Greening Life Lane
Shermans Dale, PA 17090

Joseph Otis Minott, Esquire
135 South 19th Street
Suite 300
Philadelphia, PA 19103

Brent Alderfer
Community Energy/Iberdrola
201 King of Prussia Rd Ste 500
Radnor, Pa 19087

Daniel Desmond
DEP-OETD
400 Market Street 16th Floor
Harrisburg, PA 17105-2063

Kenneth M. Kulak, Esquire
Thomas P. Gadsen, Esquire
Morgan Lewis & Bockius LLP
1701 Market Street
Philadelphia, PA 19103-2921



Robert V. Eckenrod
Prosecutor
Office of Trial Staff
PA Attorney I.D. #84889

Dated: June 29, 2007
Docket No. P-00072260



OFFICE OF SMALL BUSINESS ADVOCATE
Suite 1102, Commerce Building
300 North Second Street
Harrisburg, Pennsylvania 17101

William R. Lloyd, Jr.
Small Business Advocate

(717) 783-2525
(717) 783-2831 (FAX)

July 2, 2007

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
P. O. Box 3265
Harrisburg, PA 17105-3265

ORIGINAL

Re: Petition of PECO Energy Company for Approval of (1) A Process to Procure Alternative Energy Credits During the AEPS Banking Period and (2) A Section 1307 Surcharge and Tariff to Recover AEPS Costs Docket No. P-00072260

Dear Secretary McNulty:

Enclosed please find two copies of the direct testimony of Brian Kalcic, labeled OSBA Statement No. 1, on behalf of the Office of Small Business Advocate. As evidenced by the enclosed certificate of service, all parties have been served as indicated.

If you have any questions, please contact me.

Sincerely,

**DOCUMENT
FOLDER**

Sharon E. Webb
Assistant Small Business Advocate
Attorney ID No. 73995

2007 JUL -2 PM 3:21
SMALL BUSINESS BUREAU

KJR

Enclosures

cc: Parties of Record (letter and certificate of service only)

Brian Kalcic

19

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of PECO Energy Company :
For Approval of (1) a Process to Procure :
Alternative Energy Credits During the : Docket No. P-00072260
AEPS Banking Period and (2) a Section :
1307 Surcharge and Tariff to Recover :
AEPS Costs :

Direct Testimony of

BRIAN KALCIC

**DOCUMENT
FOLDER**

On Behalf of the
Office of Small Business Advocate

DOCKETED
JUL 05 2007

SECRETARY'S BUREAU
2007 JUL -2 PM 3:21

Date Served: June 4, 2007

Date Submitted for the Record: _____

Direct Testimony of Brian Kalcic

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

Q. Please state your name and business address.

A. Brian Kalcic, 225 S. Meramec Avenue, St. Louis, Missouri 63105.

Q. What is your occupation?

A. I am an economist and consultant in the field of public utility regulation, and principal of Excel Consulting. My qualifications are described in the Appendix to this testimony.

Q. On whose behalf are you testifying in this case?

A. I am testifying on behalf of the Office of Small Business Advocate (“OSBA”).

Q. What is the subject of your testimony?

A. I will discuss two (2) issues related to PECO Energy Company’s (“PECO” or “Company”) petition for approval of a process to acquire alternative energy credits (“AECs”) in 2007 and 2008 (“Petition”). In particular, Section I of my testimony examines the propriety of PECO’s proposal to acquire AECs via a procurement process that does not include a maximum acceptable bid price. In Section II, I discuss the quantity of AECs that PECO proposes to procure for future use.

Q. Do you have any preliminary comments?

A. Yes, I do. I have been informed by counsel that: a) Section 3(e)(7) of the Alternative Energy Portfolio Standards Act of 2004 (“AEPS” or “Act 213”) provides the legal authority for the banking of AECs purchased during a generation rate cap period; and b) based upon Section 3(e)(7), the OSBA believes that some (or all) of the AECs that PECO proposes to purchase may not qualify for banking. Accordingly, the OSBA wishes to alert the parties that it intends to address the legal issue(s) arising out of Section 3(e)(7) in its post-hearing briefs.

Q. Mr. Kalcic, would any of the findings or recommendations that you present in the remainder of your testimony be affected by the manner in

1 which the Commission resolves the OSBA's legal concerns with respect to
2 Section 3(e)(7)?

3 A. No, they would not.

4
5 **Q. Please summarize your recommendations.**

6 A. Based upon my analysis of the Company's Petition, I recommend that the
7 Commission:

- 8
- 9 • limit the total amount of deferred AEPS-related costs that would
10 be recoverable from ratepayers in 2011 to no more than \$45 per
11 AEC; and
 - 12
 - 13 • require PECO to substantiate that its proposal would not result in
14 AEC purchases in excess of the amount required to cover 100%
15 of its projected default service load in 2011 and 2012.
- 16

17 The specific details associated with the above recommendations are discussed
18 below.

19
20 **I. Maximum Acceptable Bid Price**

21
22 **Q. Mr. Kalcic, what do you mean by the term "maximum acceptable bid
23 price"?**

24 A. By maximum acceptable bid price, I mean a pre-specified price per AEC that,
25 if exceeded, would result in the *automatic* rejection of a bid, independent of
26 any other bid parameters. By including a maximum acceptable bid price in a
27 competitive solicitation, ratepayers receive a certain level of price protection
28 that would otherwise be lacking.

29
30 **Q. Does PECO's Petition include a maximum acceptable bid price?**

31 A. No.

32
33 **Q. What type of discretion would the Company retain with respect to
34 accepting or rejecting bids?**

35 A. Article 7.8 in PECO's proposed Request for Proposals ("RFP"), which is
36 identified as Exhibit 1.1, states in pertinent part:

1
2 This RFP is issued to elicit responses to PECO's inquiry and is not
3 an offer. The issuance of the RFP and the submission of bidder's
4 information do not create any obligation upon PECO to buy goods
5 or services from a bidder, and PECO reserves the right to accept or
6 reject any or all proposals received.
7

8 **Q. Why isn't the proposed language contained in Article 7.8 sufficient to**
9 **protect ratepayers?**

10 A. In short, while Article 7.8 *allows* PECO to reject a bid(s), it does not *require*
11 PECO to do so. Since PECO's Petition seeks approval of an AEPS cost
12 recovery mechanism that would guarantee that the AEPS-related costs
13 incurred by PECO during the Company generation rate cap period are fully
14 recovered, I believe that it is only fair that ratepayers be assured of the
15 protection afforded by a maximum acceptable bid price.
16

17 **Q. What maximum acceptable bid price would you recommend?**

18 A. I recommend that an effective maximum acceptable bid price be established
19 based upon the alternative compliance payment parameters contained in
20 Section 3(f)(3) of Act 213.
21

22 **Q. Please explain.**

23 A. Section 3(f)(3) establishes that the Commission shall impose an alternative
24 compliance payment (i.e., penalty) on any default service or electric
25 generation supplier that fails to obtain a requisite number of AECs during a
26 compliance period. The alternative compliance payment applicable to a
27 shortfall in AECs from Tier I resources (excluding solar) is given as \$45 times
28 the number of additional alternative energy credits needed in order to comply
29 with Act 213 during the compliance period.

30 Since Act 213 establishes an alternative compliance payment of \$45 per
31 non-solar Tier I AECs, I find no valid reason for default service customers to
32 pay in excess of the equivalent of \$45 per AEC in 2011 for the AECs that
33 PECO purchases (and banks) during its rate cap period. Stated differently, the
34 total AEPS-related costs per AEC (including carrying charges) billed to
35 default service customers in 2011 that result from buying AECs "now rather

1 than later” should never exceed \$45 per AEC in 2011 dollars. Otherwise,
2 PECO’s default service customers would have been better off if PECO had
3 waited until 2011 to acquire AECs.
4

5 **II. Quantities of AECs Purchased**

6
7 **Q. Mr. Kalcic, does PECO intend to procure all of its 2011 and 2012 AEC**
8 **requirements via its RFP?**

9 A. No. PECO claims that it intends “to acquire AECs sufficient to meet a portion
10 of its future AEPS obligations.”¹
11

12 **Q. How many AECs does PECO intend to acquire?**

13 A. PECO intends to solicit bids for a five-year annual supply of up to 450,000
14 non-solar, Tier I AECs. According to Mr. McCawley, this amount would
15 satisfy the “AEPS requirements associated with sixty percent (60%) of
16 PECO’s projected service territory load.”
17

18 **Q. Does this imply that PECO will need to purchase an additional 40% of its**
19 **expected AEC requirements after 2010?**

20 A. I don’t believe so. It *appears* that PECO’s Petition is targeting 60% of its
21 total projected load in 2011, not 60% of its projected *default service* load. As
22 such, whether or not PECO will need to acquire additional AECs at a later
23 date (as the Company suggests) will depend upon the number of customers
24 that choose to switch to alternative suppliers in 2011.
25

26 **Q. Do you have a specific concern with PECO’s proposal to acquire up to**
27 **450,000 AECs per year?**

28 A. Yes. My concern is that PECO’s proposal *not* result in the Company
29 purchasing AECs that cover well in excess of 100% of its likely default
30 service load in 2011 and 2012. Since any unused AECs that PECO purchases
31 via its RFP would expire after two years, the Company would have to sell any
32 excess AECs in the market. While PECO proposes to credit ratepayers with
33 the proceeds of any such sales, it would be default service customers, not

¹ See, for example, PECO Statement No. 1 at p. 8.

1 PECO, which would bear the associated price risk under this arrangement. In
2 short, I do not believe that it would be appropriate to speculate in this fashion
3 with ratepayers' money.
4

5 **Q. What do you recommend?**

6 A. I recommend that the Commission require PECO to substantiate that its
7 proposal would not result in AEC purchases in excess of the amount required
8 to cover 100% of its projected default service load in 2011 and 2012. If
9 necessary, the Commission should reduce the number of allowable AEC
10 purchases in PECO's proposed RFP.
11

12 **Q. Does this conclude your direct testimony?**

13 A. Yes.
14

APPENDIX

Qualifications of Brian Kalcic

Mr. Kalcic graduated from Benedictine University with a Bachelor of Arts degree in Economics in December 1974. In May 1977, he received a Master of Arts degree in Economics from Washington University, St. Louis. In addition, he has completed all course requirements at Washington University for a Ph.D. in Economics.

From 1977 to 1982, Mr. Kalcic taught courses in economics at both Washington University and Webster University, including such subjects as Microeconomic and Macroeconomic Theory, Labor Economics and Public Finance.

During 1980 and 1981, Mr. Kalcic was a consultant to the Equal Employment Opportunity Commission, St. Louis District Office. His responsibilities included data collection and organization, statistical analysis and trial testimony.

From 1982 to 1996, Mr. Kalcic joined the firm of Cook, Eisdorfer & Associates, Inc. During that time, he participated in the analysis of electric, gas and water utility rate case filings. His primary responsibilities included cost-of-service and economic analysis, model building, and statistical analysis.

In 1996, Mr. Kalcic founded Excel Consulting, a consulting practice that offers business and regulatory services.

Mr. Kalcic has previously testified before the state regulatory commissions of Delaware, Kansas, Kentucky, Maine, Massachusetts, Minnesota, Missouri, New Jersey, New York, Ohio, Oregon, Pennsylvania, and Texas, as well as the Bonneville Power Administration.

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of PECO Energy Company for Approval :
of (1) A Process to Procure Alternative Energy :
Credits during the AEPS Banking Period and : DOCKET NO. P-00072260
(2) A Section 1307 Surcharge and Tariff :
to Recover AEPS Costs :

CERTIFICATE OF SERVICE

I certify that I am hand delivering two copies of OSBA Statment No. 1, the Direct Testimony (and Appendix) of Brian Kalcic, on behalf of the Office of Small Business Advocate, in the above-captioned proceeding, to the Secretary of the Commission. The parties below have previously been served with the testimony and are being served with the letter and certificate only(unless otherwise indicated):

Hon. Marlane R. Chestnut
Administrative Law Judge
Pa. Public Utility Commission
Rm. 1302, Philadelphia State Office Building
1400 West Spring Garden Street
Philadelphia, PA 19130
(215) 560-2105
(215) 560-3133 - Fax
machestnut@state.pa.us

Brian D. Crowe
Paul R. Bonney
Adrian D. Newall
PECO Energy Company
2301 Market Street
P.O. Box 8699
Philadelphia, PA 19103
(215) 841-4941
(215) 568-3389 (fax)
brian.crowe@peco-energy.com
paul.bonney@exeloncorp.com
adrian.newall@exeloncorp.com

George Jugovic, Jr., Esquire
Penn Future
Suite 2779
425 Sixth Avenue
Pittsburgh, PA 15219-1853
(412) 258-6684
(412) 258-6685 (fax)
jugovic@pennfuture.org

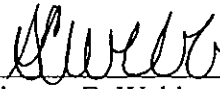
Tanya McCloskey, Esquire
Christy M. Appleby, Esquire
Office of Consumer Advocate
555 Walnut Street - 5th Floor
Harrisburg, PA 17101-1923
(717) 783-5048
(717) 783-7152 (fax)
tmccloskey@paoca.org
cappleby@paoca.org
(E-mail and Hand Delivery)

Robert V. Eckenrod, Esquire
Office of Trial Staff
Pa. Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105
(717) 787-1976
(717) 772-2677 (fax)
roeckenrod@state.pa.us
(E-mail and Hand Delivery)

David M. Kleppinger, Esquire
Charis Mincavage, Esquire
Barry Naum, Esquire
McNees Wallace & Nurick LLC
100 Pine Street
P. O. Box 1166
Harrisburg, PA 17108-1166
(717) 232-8000
(717) 237-5300 (fax)
dkleppinger@mwn.com
cmincavage@mwn.com

bnaum@mwn.com

Kathy Niesborella
kniesborel@state.pa.us
(E-mail only)



Sharon E. Webb
Assistant Small Business Advocate
Attorney ID No. 73995

Date: July 2, 2007

2007 JUL -2 PM 3:21
SECRETARY'S BUREAU