

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**PETITION OF PECO ENERGY COMPANY :
FOR APPROVAL OF ITS DEFAULT : Docket No. P-2016-2534980
SERVICE PROGRAM FOR THE PERIOD :
FROM JUNE 1, 2017 THROUGH MAY 31, 2019 :**

**OFFICE OF SMALL BUSINESS ADVOCATE
STATEMENT IN SUPPORT OF JOINT
PETITION FOR PARTIAL SETTLEMENT**

I. INTRODUCTION

The Small Business Advocate is authorized and directed to represent the interests of small business consumers in proceedings before the Pennsylvania Public Utility Commission (“Commission”) under the provisions of the Small Business Advocate Act, Act 181 of 1988, 73 P.S. §§ 399.41 - 399.50. In order to discharge this statutory duty, the Office of Small Business Advocate (“OSBA”) is participating as a party to this proceeding to ensure that the interests of small business customers of PECO Energy Company (“PECO” or the “Company”) are adequately represented and protected.

II. PROCEDURAL HISTORY

On March 17, 2016, PECO filed with the Commission the Petition of PECO Energy Company for Approval of Its Default Service Program for the Period From June 1, 2017 Through May 31, 2019 (“Petition”). The Petition seeks approval of PECO’s proposed fourth Default Service Program (“DSP IV”) to secure default service supply for the Company’s customers for the period from June 1, 2017, through May 31, 2019.

On April 4, 2016, the OSBA intervened and filed an Answer in this proceeding in order to protect the interests of the Company's small commercial and industrial ("Small Commercial") customers.

Answers were also filed by the Philadelphia Area Industrial Energy Users Group ("PAIEUG") on April 8, 2016, and the Office of Consumer Advocate ("OCA") on April 13, 2016.

Petitions to Intervene were filed by the Coalition for Affordable Utility Service and Energy Efficiency in Pennsylvania ("CAUSE-PA"), Direct Energy Services, LLC ("Direct Energy"), Retail Energy Supply Association ("RESA"), Noble Americas Energy Solutions LLC ("Noble"), and Tenant Union Representative Network and Action Alliance of Senior Citizens of Greater Philadelphia ("TURN").

This matter was assigned to Administrative Law Judge ("ALJ") Cynthia Williams Fordham who held a telephonic prehearing conference on April 22, 2016, at which time a procedural schedule and discovery modifications were established, all petitions to intervene were granted, and PECO's motion for a protective order was granted.

The OSBA submitted the Direct Testimony of Brian Kalcic on June 3, 2016.

After the submission of all written testimony, the parties engaged in settlement discussions that resulted in a partial settlement of the issues in this proceeding ("Partial Settlement"). All parties, with the exception of Noble, are parties to the Partial Settlement or do not oppose the Partial Settlement.

An evidentiary hearing was held on July 14, 2016 (the "Hearing"), at which time the parties notified ALJ Fordham of the Partial Settlement. The parties agreed to waive cross-

examination of other witnesses prior to the hearings and they were excused from appearing. The testimony and exhibits of the parties were entered into the record.

Subsequently, the ALJ approved a revised briefing schedule providing for the filing of Initial Briefs and Reply Briefs on August 11, 2016 and August 25, 2016, respectively.

The OSBA actively participated in the negotiations that led to the proposed Partial Settlement, and is a signatory to the Joint Petition for Partial Settlement (“Joint Petition”). The OSBA submits this statement in support of the Joint Petition.

III. STATEMENT IN SUPPORT

With respect to the issue of concern to the OSBA, specifically Small Commercial Class procurement, the OSBA has no objections to PECO’s DSP IV plan as initially proposed. The OSBA agrees with the Company’s proposal for equal shares of one-year and two-year, overlapping, fixed price full requirements (“FPFR”), load following contracts to acquire default service supply for Small Commercial default service customers.

Because the Joint Petition resolves the issue of Small Commercial procurement consistent with PECO’s initial proposal and furthers judicial efficiency, the OSBA determines that the Joint Petition is in the best interest of PECO’s small business customers.

A. Acquisition of Small Commercial Class Default Service Supply Through Equal Shares of One-Year and Two-Year, Overlapping FPFR Contracts (Joint Petition ¶¶20-21)

Small Commercial default service supply is currently provided via one-year fixed-price full requirements, load-following contracts. All procurements take place approximately two months prior to delivery, with contract delivery periods overlapping on a semi-annual basis.

In its DSP IV, PECO proposes to transition Small Commercial customers from their current reliance on one-year supply contracts to a 50%/50% mix of one-year and two-year supply contracts. All such contracts would remain fixed price, full requirements and load following in nature, with contracts awarded on the basis of an RFP-based procurement. In addition, all procurements would continue to take place approximately two months prior to delivery, and supply contracts would continue to be laddered (overlap) on a six-month basis.¹ The change in procurement mix is “designed to better ensure price stability for those small non-residential customers who do not select service from a competitive retail supplier.”²

OSBA witness Brian Kalcic, in his Direct Testimony, notes that the percentage of Small Commercial customers that have chosen to remain on default service has been both significant and remarkably stable over the period January 2013 to January 2016.³ On average, approximately 53% of all Small Commercial customers (representing approximately 39% of the class’s total load) have chosen to remain on default service over the last three years.⁴

Mr. Kalcic agrees with PECO that price stability is an important consideration when designing a procurement plan for the Small Commercial class, because the 53% of Small Commercial customers that remain on default service should not be saddled with an unnecessarily volatile default service rate.⁵ Accordingly, he finds PECO’s proposed change to the Small Commercial class procurement mix to be reasonable, since the inclusion of two-year

¹ See PECO Exhibit JJM-2 for a detailed summary of the Company’s proposed Small Commercial procurement schedule (*i.e.*, procurement dates, product terms and the number of tranches procured, by solicitation).

² See PECO Statement No. 3, at page 22.

³ OSBA Statement No. 1 at 3.

⁴ *Id.*

⁵ *Id.*

contracts should provide greater price stability for the significant percentage of Small Commercial customers that choose to remain on default service.⁶

Consistent with the OSBA's position, the Partial Settlement adopts PECO's proposal, as filed, to implement equal shares of one-year and two-year, FPFR, load following contracts awarded on the basis of an RFP-based procurement. This agreed upon procurement plan for the Small Commercial procurement group provides price stability for Small Commercial default service customers, while still permitting default service rates to reasonably reflect current market prices and promote competition. Thus, the OSBA determines that it is in the best interests of PECO's Small Commercial default service customers.

B. Judicial Efficiency

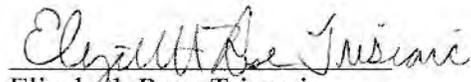
Finally, a partial settlement of the issues in this proceeding avoids the litigation of certain complex, competing proposals and reduces the possibly significant costs of further administrative proceedings. Such costs are borne not only by the parties, but ultimately by the Company's customers as well. Limiting the issues for litigation of this matter will serve judicial efficiency, and will allow the OSBA to more efficiently employ its resources in other areas.

⁶ *Id.* at 4.

IV. CONCLUSION

For the reasons set forth in the Joint Petition, as well as the additional factors enumerated in this statement, the OSBA supports the Joint Petition and respectfully requests that ALJ Fordham and the Commission approve the Partial Settlement in its entirety without modification.

Respectfully submitted,


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