

COMMONWEALTH OF PENNSYLVANIA



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August 25, 2016

Rosemary Chiavetta, Secretary
PA Public Utility Commission
Commonwealth Keystone Bldg.
400 North Street
Harrisburg, PA 17120

Re: Petition of PECO Energy Company
For Approval of its Default Service Program for the
Period from June 1, 2017 through May 31, 2019
Docket No. P-2016-2534980

Dear Secretary Chiavetta:

Attached for electronic filing please find the Office of Consumer Advocate's Reply Brief in the above-referenced proceeding.

Copies have been served per the attached Certificate of Service.

Respectfully submitted,

A handwritten signature in cursive script that reads "Christy M. Appleby".

Christy M. Appleby
Assistant Consumer Advocate
PA Attorney I.D. # 85824

Attachment

cc: Honorable Cynthia Williams Fordham, ALJ
Certificate of Service

225272

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of PECO Energy Company :
For Approval of its Default Service :
Program for the Period Service Plan : Docket No. P-2016-2534980
For the Period from June 1, 2017 Through :
May 31, 2019 :

REPLY BRIEF
OF THE OFFICE OF CONSUMER ADVOCATE

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DATED: August 25, 2016

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I. INTRODUCTION

On August 11, 2016, PECO Energy Company (PECO or Company), the Office of Consumer Advocate (OCA), Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA), Tenant Union Representative Network and Action Alliance of Senior Citizens of Greater Philadelphia (TURN *et al.*), and the Retail Electric Supply Association (RESA) filed Initial Briefs in this proceeding. The Bureau of Investigation and Enforcement (I&E) filed its Initial Brief on August 4, 2016. The OCA submits this Reply Brief in response to RESA and PECO. Many of the arguments raised by PECO and RESA were addressed in the OCA's Initial Brief and will not be repeated here. Nothing contained in PECO's or RESA's Main Briefs changes the OCA's positions as stated in its Initial Brief regarding the Customer Assistance Program (CAP) shopping in PECO's service territory.

As explained in their Main Briefs, the OCA, CAUSE-PA, and TURN *et al.* support the CAP-SOP as proposed by CAUSE-PA witness Harry Geller. OCA I.B. at 11-27; CAUSE-PA M.B. at 13-28; TURN *et al.* M.B. at 12-33. PECO has not proposed a CAP Shopping Plan in this proceeding. PECO witness McCawley stated that the Company planned to introduce a CAP Shopping Plan with no price restrictions and no cancellation fees on or around August 2016. PECO St. 2-R at 13-15; PECO I.B. at 5-9; RESA M.B. at 20.¹ RESA supports a CAP Shopping Plan that would contain no price restrictions and no cancellation fees. RESA M.B. at 20; see, PECO I.B. at 5-9.

The facts are overwhelming that CAP customers throughout Pennsylvania have paid higher electric bills where unrestricted CAP shopping has been permitted. These increases impact both CAP shopping customer bills and non-CAP residential customer bills through the Universal Service Rider. Often, as discussed in CAUSE-PA witness Harry Geller's testimony,

¹ In its Main Brief, PECO states that it will file the Plan by September 1, 2016. PECO I.B. at 7.

non-CAP residential customers are also low-income customers. Although PECO CAP customers are not currently able to shop, Mr. Geller cites the impacts on affordability and program costs that have been experienced with the FirstEnergy Companies' and PPL Electric's (PPL) CAP Shopping programs. CAUSE-PA St. 1 at 27-29. ALJ Colwell recognized these harms to support her decision to approve a CAP-SOP with price restrictions and no cancellation fees in PPL's DSP IV CAP Shopping Plan. Petition of PPL Electric Utilities Corporation for Approval of a Default Service Program and Procurement Plan for the Period June 1, 2017 through May 31, 2021, Docket No. P-2016-2526627, Recommended Decision at 55-56 (August 10, 2016) (PPL DSP IV R.D.). The evidence presented on the harms to CAP customers and non-CAP residential ratepayers is not disputed in this proceeding.

The record is clear that without CAP shopping protections, the cost-effectiveness of the CAP and CAP customer affordability will be compromised. CAUSE-PA St. 1 at 6-35; see also, OCA St. 2-R at 1-3; TURN St. 1-SR at 5-8. RESA's and PECO's answer in this proceeding to implement no price protections in the face of clear evidence of harm experienced in five other Pennsylvania service territories cannot be sustained.

The OCA supports CAUSE-PA's proposed CAP-SOP and recommends that a stakeholder group be developed in order to address the details of implementation of the CAP Shopping Plan prior to DSP IV.² The OCA submits that any shopping plan must ensure that CAP shopping customers do not suffer higher bills and that other ratepayers are not required to pay higher costs. See, OCA St. 2-R at 5. The OCA submits that these core principles should be adopted by the Commission, and that the stakeholder group be developed in order to address the details of implementation of the CAP-SOP Shopping Plan prior to DSP IV. OCA St. 2-R at 7.

² The OCA notes that I&E has proposed that the Commission promptly initiate a statewide collaborative to address CAP shopping protections. The OCA does not object to such a statewide effort, but the issues presented here should be decided so that there is a sound program in place at the commencement of DSP IV.

II. STATEMENT OF THE CASE

The OCA provided a Statement of the Case at page 6 of its Initial Brief.

III. STATEMENT OF THE QUESTIONS INVOLVED

The OCA identified the questions involved in this matter at page 7 of its Initial Brief.

IV. LEGAL STANDARDS AND BURDEN OF PROOF

The OCA provided a discussion of the legal standards and burden of proof at pages 8 to 10 of its Initial Brief.

V. SUMMARY OF ARGUMENT

The OCA provided a Summary of Argument at pages 11 to 12 of its Initial Brief.

VI. ARGUMENT

A. Legal Authority for CAP Shopping Restrictions

In its Main Brief, RESA argues that the Commonwealth Court's Order in the PECO CAP Shopping proceeding does not support an action by the Commission to limit CAP customer shopping as proposed in CAUSE-PA's CAP-SOP proposal. RESA M.B. at 12-16, citing CAUSE-PA et al. v. Pa. PUC, 120 A.3d 1087, 1100 (Pa. Cmwlth. Ct. July 14, 2015), *cert denied* 2016 Pa. LEXIS 723 (Pa. April 5, 2016) (PECO CAP Shopping). Such a reading of the Court's Order is misplaced. The Court clearly held that the Commission has the authority to

impose CAP rules that would limit EGS offers. Id. at 1103-1104. The Commonwealth Court concluded:

[t]he PUC has the authority under Section 2804(9) of the Choice Act, in the interest of ensuring that universal service plans are adequately funded and cost effective, to impose, or in this case approve, CAP rules that would limit the terms of any offer from an EGS that a customer can accept and remain eligible for CAP benefits. The obligation to provide low-income programs falls on the public utility under the Choice Act, not the EGSs. Moreover, the Choice Act expressly requires the PUC to administer these programs in a manner that is cost-effective for the CAP participants and non-CAP participants, who share the financial consequences of the CAP participant's EGS choice.

Our conclusion finds support in the Choice Act's legislative declaration of policy, which both encourages deregulation to allow consumers the opportunity to purchase directly their supply from EGSs and emphasizes the need to continue to maintain programs that assist low-income customers to afford service. 66 Pa. C.S. § 2802(7), (9), (10), (14), (17). So long as it "provides substantial reasons why there is no reasonable alternative so competition needs to bend" to ensure adequately-funded, cost-effective, and affordable programs to assist customers who are low-income to afford electric service, *PP&L Indus.*, 780 A.2d at 782, the PUC may impose CAP rules that would limit the terms of any offer from an EGS that a customer could accept and remain eligible for CAP benefits – e.g. EGS rate ceiling, prohibition against early termination/cancellation fees."

PECO CAP Shopping at 1103-1104.

The Commonwealth Court clearly found that the Commission had a dual responsibility under the Customer Choice Act regarding both universal service and retail choice. Under the Public Utility Code, the Commission has the clear legal authority, and duty, to maintain affordable, cost-effective universal service programs, and the CAP-SOP will aid in this endeavor. 66 Pa. C.S. § 2804(9). One of the key standards is the requirement that universal service and energy conservation policies, activities and services be appropriately funded and available in each electric distribution service territory and that the programs be operated in a cost-effective manner. Id. The statute explicitly states in relevant part:

Programs under this paragraph shall be subject to the administrative oversight of the Commission which will ensure that the programs are operated in a cost-effective manner.

66 Pa. C.S. § 2804(9). Specifically, the Commonwealth Court stated that “the absence of authority to regulate EGS rates alone does not compel the conclusion that the PUC lacks authority to adopt rules attendant to universal service programs that may have the effect of limiting competition and choice with respect to low-income customers.” PECO CAP Shopping at 1101.

The OCA submits that the PECO CAP Shopping case established that the Commission has the authority, and the duty, in a situation such as the one presented here to implement CAP Shopping Plan rules. The record clearly demonstrates that without protections for CAP customer shopping, cost-effectiveness and affordability will be compromised. The CAP-SOP is a reasonable solution to address the harms raised by the evidence presented in this case. The CAP-SOP will provide CAP shopping customers with access to the retail choice market, protect affordability for CAP shopping customers, and mitigate the cost impact to non-CAP residential customers who pay the costs of the program.

B. Whether CAP Shopping Restrictions Are Needed.

1. Overview

The OCA submits that the evidence presented in this case demonstrates that there is a clear need to implement CAP Shopping program protections and develop a specific shopping program for CAP customers to address their unique challenges. See, OCA I.B. at 16-20. In his Direct Testimony, CAUSE-PA witness Geller described the impacts on CAP customer affordability and CAP program costs in programs without effective CAP shopping rules. See, CAUSE-PA St. 1 at 18-19. As discussed in CAUSE-PA witness Geller’s testimony and in the

Main Briefs of CAUSE-PA and TURN *et al.*, CAP customers are economically vulnerable, low-income customers with limited funds for the necessities of life, including electricity. CAUSE-PA St. 1 at 6, 15-17, 22-24; CAUSE-PA M.B. at 18-20; TURN *et al.* M.B. at 18-19. Customers are enrolled in the CAP program because they cannot otherwise afford electricity and require a discounted rate, paid for by all other non-CAP residential ratepayers, in order to maintain essential electric service. Pursuant to the requirements of the Customer Choice Act, PECO must maintain an affordable CAP program for low-income customers in a cost-effective manner. 66 Pa. C.S. §§ 2802(7), (9), (10), (14), (17).

RESA and PECO's proposal is to allow CAP customers to shop with no protections. RESA I.B. at 10-11; PECO I.B. at 5-9. Neither of these proposals address the fundamental problem. The CAP-SOP will create a specific CAP-SOP option that allows CAP customers to participate in the retail choice environment and to mitigate some of the harms to both CAP shopping customers and non-CAP residential ratepayers who pay the costs of the program.

2. RESA's and PECO's proposal to implement no CAP shopping price protection rules is not reasonable given the facts in this proceeding.

RESA raises the question of whether CAUSE-PA has met its burden of proving CAP shopping restrictions are necessary. RESA M.B. at 16-19. The OCA submits that the answer is resoundingly in the affirmative – CAUSE-PA has met its burden of providing that CAP shopping limitations are necessary, and provides a reasonable solution to a complex problem. PECO's proposal to implement a CAP Shopping Plan without any price protections will not address the harms identified by CAUSE-PA witness Geller. See, CAUSE-PA. St. 1 at 18-19, 27-29, App. D.

RESA argues that no evidence has been presented which demonstrate how PECO's CAP customers have been harmed by CAP Shopping and the evidence presented regarding other utilities is not instructive for PECO and PECO's CAP program design. RESA I.B. at 14. While

it is correct that PECO's CAP customers are not currently able to shop, the OCA submits that evidence presented in this case is instructive and clearly demonstrates that there is a need to implement CAP shopping rules. RESA has certainly provided no evidence that the experience of CAP customers in PECO's service territory will be any different than the experience of CAP customers in the five service territories documented by CAUSE-PA witness Geller.

CAUSE-PA witness Geller has identified significant harms to both CAP customers and non-CAP residential ratepayers who pay the costs of the program. CAUSE-PA St. 1 at 18-19. The underlying commonality in the testimony of CAUSE-PA witness Geller; TURN *et al.* witness Bertocci; and OCA witness Alexander is the need for CAP shopping protections to be implemented to address the financial impact of CAP shopping on CAP customers and residential customers who pay the costs of CAP. CAUSE-PA St. 1 at 6-35 see also, OCA St. 2-R at 1-3; TURN St. 1-SR at 5-8.

CAUSE-PA witness Geller examined the impact of CAP customer shopping on CAP customer affordability in the five Pennsylvania service territories (PPL and the four FirstEnergy Companies (Met-Ed, Penelec, Penn Power, and West Penn Power)) that allow CAP Shopping without restrictions. CAUSE-PA St. 1 at 27-28. Of critical importance here, Mr. Geller demonstrated that in 2015, an average of 46% of PPL's CAP shopping customers paid more than the Price to Compare (PTC). CAUSE-PA St. 1 at 27. In addition, for every month from January 2012 to February 2016, on average, at least 42% of PPL's CAP shopping customers paid more than the PTC, and in six of those months, on average, 88% to 99% of PPL's CAP shopping customers paid more than the PTC. CAUSE-PA St. 1 at 27.

In PPL's service territory, CAP shopping customers not only paid more on average than the Price to Compare, but the CAP shopping customers paid *significantly* more than the Price to

Compare in the months when their EGS price was higher than the PTC. CAUSE-PA witness Geller testified:

The data also shows that those customers who paid more than the price to compare paid significantly more, as compared to the savings achieved by customers who paid less than the price to compare. In the month in which CAP customers who shopped paid the highest percentage more than the price to compare, they paid on average 101% more per kWh. But in the month when CAP customers who shopped achieved the greatest savings, they paid only 14% less than the price to compare.

CAUSE-PA St. 1 at 28.

It is not just the affordability for CAP customers but the increased costs to non-CAP customers for the program. The amount that is paid by non-CAP residential ratepayers is referred to as the CAP Shortfall. The amount of the CAP Shortfall will increase when the customer is charged a price by an EGS that is higher than PECO's Price to Compare. Those increased costs will flow through to other ratepayers. As discussed in Mr. Geller's Direct Testimony, PPL's non-CAP residential customers have annually paid \$2.74 million more for the CAP program exclusively due to CAP shopping. As CAUSE-PA witness Geller testified, **"the net impact of CAP customer shopping over the 46-month period from January 2012 through October 2015 is \$2,743,872 per year."** CAUSE-PA St. 1 at 29 (emphasis in original).

The experiences of FirstEnergy Company customers have been consistent with the experiences of PPL's CAP shopping customers. Mr. Geller testified that as of November 2015, "more than 77% of Met-Ed's CAP customers, more than 50% of Penelec's CAP customers, and more than 65% of West Penn's CAP customers who are shopping are paying a price higher than the price to compare." CAUSE-PA St. 1 at 29.

RESA argues that there are differences in shopping levels between service territories and one may only have a few competitive offers while another has hundreds of competitive offers.

RESA M.B. at 14. RESA has no support for this argument as the record shows. More to the point, RESA's own arguments calling for no restrictions suggests that there will be offers above the PTC. The OCA respectfully submits that we cannot wait and see. There is no basis for exposing PECO's CAP customers who are payment troubled to such harm.

RESA also argues that the "point of time used for the comparison is most certainly not reflective of the conditions experienced by other utilities' shopping CAP customers over their entire shopping experience." RESA M.B. at 15, citing Petition of PPL Electric Utilities Corporation for Approval of a Default Service Program and Procurement Plan, Docket No. P-2012-2302074, Order at 163 (January 24, 2013) (PPL DSP II Order). In the PPL DSP II Order proceeding, PPL did, in fact, examine a single month to find that at that time, 73% of CAP customers paid more than the Price to Compare. Petition of PPL Electric Utilities Corporation for Approval of a Default Service Program and Procurement Plan, Docket No. P-2012-2302074, Recommended Decision at 131 (January 24, 2013) (PPL DSP II R.D.) However, as discussed by CAUSE-PA witness Geller's Direct Testimony, PPL conducted a **46-month analysis** of the CAP customer shopping market and its impacts on CAP customers and non-CAP residential ratepayers who pay the costs of the program. CAUSE-PA St. 1 at 27-28, App. D; see, OCA I.B. at 18-20. Moreover, based upon the evidence presented regarding the harms presented by unrestricted CAP customer shopping, ALJ Colwell concluded in the PPL DSP IV R.D. that:

An OnTrack customer who pays more than the PTC will use CAP credits at a faster rate and may lose the benefit of reduced rates earlier than necessary. This results in a higher bill and may imperil the customer's ability to pay the electric bill while increasing the risk of service termination. In addition, the collective result of many customers paying higher prices results in the Company's total approved CAP amount being reached, thereby maximizing the amount of subsidization that is ultimately paid by the residential rate class customers.

The Act acknowledges that the Commonwealth must continue the protections, policies and service that now assist customers who are low-income to afford

electric service, and this Commission interprets this to include the provision of customer assistance programs. CAP programs are subsidized by the residential rate class customers, and those customers pay higher bills in order to make the CAP programs meaningful for low-income customers. Therefore, it should go without saying that those CAP programs must be administered in a financially responsible fashion and not used to pay higher prices than necessary to third-party EGSs who do not subsidize the CAP.

The Parties have submitted substantial evidence to support the imposition of restrictions on CAP participants who want to shop, and RESA has not successfully rebutted that evidence.

Petition of PPL Electric Utilities Corporation for Approval of a Default Service Program and Procurement Plan for the Period June 1, 2017 Through May 31, 2021, Docket No. P-2016-2526627, Recommended Decision at 55-56 (August 10, 2016) (PPL DSP IV R.D.). The OCA submits that the analysis performed in the PPL DSP IV case is far beyond the scope completed in the PPL DSP II proceeding, and beyond the scope of what was considered in PECO's DSP II proceeding.

RESA argues that the data from other utilities is flawed because it does not take into account the specific EGS contract term, a change in the CAP shopping customer's product, or whether the consumer received a benefit such as a gift card or energy audit. RESA M.B. at 14-15. This is mere speculation on RESA's part, and indeed, this does not overcome the higher charges to non-CAP residential customers as any such benefit would be provided to the individual CAP customer outside of the program. Further, receipt of a gift card is only a temporary benefit, "the point of time" that RESA suggests should not be considered. The receipt of a gift card also does not address the long-term impacts of CAP customer shopping on both CAP shopping customers and non-CAP residential ratepayers over the many years.

Moreover, the OCA notes that to the extent that a CAP customer has received an energy audit from the EGS, the benefit is limited and unnecessary. CAP customers already receive this

benefit, and weatherization services to make the improvements presented by the energy audit, through PECO's Low Income Usage Reduction Program (LIURP) at no cost to the CAP customer. The OCA submits that the speculative benefits of an energy audit or gift card at the beginning of the shopping experience do not adequately address the harms identified in this case.³

RESA argues that the CAP redesign provides CAP customers with portability of their benefits, and therefore, the time to consider CAP Shopping Plan changes is after the program is implemented. RESA I.B. at 15-16.⁴ The OCA submits that PECO's CAP benefits are portable, as are the CAP benefits for PPL and the FirstEnergy Companies. The FirstEnergy Companies have a similar Fixed Credit Option (FCO) program as PECO's CAP program design. The issue of portability has not arisen for either PPL or any of the FirstEnergy Companies. The OCA submits that the experiences in PPL and the four FirstEnergy Companies provide clear, applicable lessons regarding the trends of CAP customer shopping and the impact on both CAP shopping participants and non-CAP residential ratepayers.

The OCA submits that the similar experiences in all five of the service territories demonstrate the consistent harms experienced by both CAP shopping customers and non-CAP residential customers. The PPL and FirstEnergy Companies' experiences demonstrate a clear need for additional protections to be provided for PECO's CAP customers. The OCA submits

³ The New York Public Service Commission recently issued an Order that concluded that "[t]he record contains no evidence of an EVRA product or service [value-added options] that would preserve the value of financial assistance programs." Proceeding on Motion of the Commission to Assess Certain Aspects of the Residential and Small Non-Residential Retail Energy Markets in New York State, Case No. 12-M-0476, Order at 9, 17 (July 15, 2016) (NY REV Order). The NY PSC issued a moratorium in the case on further low-income Assistance Program Participant (APP) customer shopping. Id. at 17.

⁴ The re-design of PECO's CAP program was related to affordability, not CAP customer shopping. The Commission's direction was to improve affordability but to do so in a way that accommodates retail choice. See, PECO Energy Company Universal Service and Energy Conservation Plan for 2013-2015 Submitted in Compliance with 52 Pa. Code §§ 54.74 and 62.4, Docket No. M-2012-2290911, Order at 8, 55 (April 4, 2013).

that the CAP-SOP is a reasonable solution. The CAP-SOP will allow CAP customers to access the retail choice market and at the same time to be protected from the potential and realized harms that have occurred in PPL's and FirstEnergy's service territories.

C. CAP Shopping Proposals

1. The CAP-SOP is a reasonable CAP Shopping Plan that will allow CAP customers access to the retail choice market and will mitigate the harms caused by ineffective shopping decisions.

CAUSE-PA, TURN *et al.* and OCA support the implementation of a CAP-SOP to protect CAP customers and non-CAP residential customers from the impact of ineffective shopping decisions. The proposed timeline for June 1, 2017 implementation will allow CAP customers to be educated on the significant changes to the CAP redesign before introducing a new CAP Shopping Plan, and will also allow stakeholders to address necessary implementation details as identified by OCA witness Alexander.

RESA identifies a number of concerns with the CAP-SOP proposal. RESA raises issues concerning a requirement to “guarantee a steady supply of energy priced below the PTC”; the removal of a CAP customer's ability to shop “freely” and receive “value-added benefits of shopping; the potential for the lack of EGS participation in the program; and the proposed timeline for implementation. RESA M.B. at 11, 16-19. The OCA submits that these concerns amount to mere speculation and provide no reason to reject the CAP-SOP.

2. RESA's identified implementation issues do not present an obstacle to the CAP-SOP.

RESA opposes CAUSE-PA witness Geller's proposal to require CAP customers to shop only through the CAP-SOP option. RESA M.B. at 16-17; RESA St. 1 at 14. RESA argues that the proposal would “require EGSs to guarantee a steady supply of energy priced below the PTC.” RESA M.B. at 17. RESA mischaracterizes the requirements of the CAP-SOP program.

The CAP-SOP proposal provides for the program to be completely voluntary for EGS participants. EGSs are free to elect to participate in both the traditional SOP program and the proposed CAP-SOP program. While EGSs must serve customers at the price offered at the time of enrollment, EGSs would be able to opt out of the program for each quarterly PTC price change.

RESA argues that the PTC is an inappropriate metric to be used in the competitive marketplace and will limit EGS participation. RESA M.B. at 17. The PTC is the measure for CAP customer affordability under the Commission's CAP Policy Statement. As the Commonwealth Court held, unbridled competition must at times yield "to ensure adequately-funded cost-effective, and affordable programs to assist customers who are low-income to afford electric service." PECO CAP Shopping at 1103. The CAP-SOP provides a means for CAP customers to participate in the competitive market through an EGS that will provide a discount on the PTC. CAUSE-PA's proposal provides a guarantee of savings for CAP customers. However, if the PTC drops more than 7% at any time during the CAP shopping customer's enrollment, the EGS has the choice to either re-enroll the customer in the program with a new 7% off the then applicable PTC or to return the customer to default service. CAUSE-PA St. 1 at 32, fn. 56. The CAP-SOP is designed to provide the CAP customer with the benefits of the competitive retail choice market, and the EGSs the freedom to return the CAP customers to default service if the PTC changes beyond 7% off the PTC at the time of enrollment.

3. The CAP-SOP will not eliminate all shopping opportunities for CAP customers.

RESA argues that if implemented, the CAP-SOP will adversely affect available choices for CAP participants. RESA M.B. at 16-19. RESA further argues that the CAP-SOP will result in "EGSs not choosing to provide service to CAP customers." RESA M.B. at 17. The OCA

submits that RESA has provided no evidence whatsoever that all EGSs will decline to participate in a CAP-SOP or that CAP customers will not participate in the CAP-SOP.

The CAP-SOP will offer the same 7% off the Price to Compare at the time of enrollment, the same 12-month contract, and the same restriction on cancellation or termination fees as the traditional SOP. The primary difference will be that in order to continue to serve the CAP shopping customer for the full 12-month contract, the EGS will need to re-enroll the customer at a new 7% off then applicable PTC if the PTC drops more than 7%. CAUSE –PA St. 1 at 32-33. The EGS would be free to return the CAP customer to default service if the EGS no longer wished to serve the customer through the CAP-SOP at that time. There is absolutely no basis to speculate that EGSs will not participate in the CAP-SOP when they do participate in the SOP. While RESA is correct that the CAP-SOP will be the only available option for CAP customers while they are enrolled in the CAP program, the OCA submits that this is a reasonable accommodation to address the harms presented to both CAP shopping customers and non-CAP residential customers who pay the costs of the program.

RESA also argues that the \$30 referral fee would inhibit EGS participation. RESA I.B. at 17-19. These arguments are simply speculation. As to the \$30 referral fee, the whole point of the SOP was to reduce the acquisition costs for EGSs in obtaining customers – CAP customers included.⁵ The reduced acquisition costs benefit the EGSs whether the acquired customer is a CAP customer or a non-CAP customer.

4. Implementation of CAP Shopping should not occur until at least June 1, 2017.

RESA argues that the “ability of CAP customers to shop has already been fully vetted and reasonable restrictions already determined through other litigated and appellate

⁵ Interestingly, RESA is touting the \$50 and \$100 gift cards used to obtain customers as a benefit but there is no need for those higher acquisition costs under the CAP-SOP.

proceedings.” RESA M.B.at 10-11. RESA argues that no new issues have been raised to warrant further delay. RESA M.B. at 11. RESA supports PECO’s proposal to implement CAP Shopping by the first quarter of 2017. RESA M.B. at 10-11. OCA witness Alexander, CAUSE-PA witness Geller, and TURN *et al.* witness Bertocci all recommend that the CAP Shopping Plan should not be implemented until June 1, 2017 (the beginning of DSP IV) due to the potential for customer confusion as changes to the CAP program are rolled out in the Fall of 2016. See, OCA M.B. at 23-27; OCA St. 2-R at 1-4; CAUSE-PA St. 1 at 14; TURN *et al.* St. 1-SR at 11.

As discussed in the OCA’s Main Brief and in the testimony of OCA witness Alexander, simultaneous with the CAP Shopping Plan issues, the Commission has also been examining the affordability of PECO’s CAP customer program design. OCA I.B. at 25; OCA St. 2-SR at 3-4. Effective in October 2016, the CAP program will be completely redesigned to better target affordability to those customers with the greatest need. The CAP is currently structured as a tiered discount, and the program will become a Fixed Credit Option (FCO) program. See FCO program description at CAUSE-PA St. 1 at 19-23. Given the complexity of the proposed program design changes and the potential for customer confusion, the first quarter of 2017 is not the appropriate time to add CAP shopping. See, OCA M.B. at 23-27.

The CAP design changes will impact the way that CAP customers receive their benefits – changing from a discount program to a fixed credit program. These changes will impact the way CAP customer bills look and may impact the level of benefits that CAP customers receive. See, TURN St. 1-SR at 11. The reason for the delay is that in order to make effective shopping decisions, CAP customers will need to first understand how the design changes will impact their

monthly bills. RESA's argument solely looks at the availability of CAP customer shopping, but it ignores the reality that the CAP customer's bills are about to fundamentally change.

Regarding the scope of the anticipated changes, OCA witness Alexander testified:

The Commission has approved a significant change to the PECO CAP customer rate design. The new CAP program design will change from a rate discount program to a fixed credit program. This change will affect all of PECO's 140,000 CAP customers. As with any change in rate design, particularly one of this substantial nature, there will be "winners" and "losers." Some CAP customers will receive an increase to their current dollar benefits. Others will receive a reduction to their dollar benefits or no dollar benefits at all compared to the current discount program. Furthermore, PECO will initiate a new arrears management program for CAP customers at this time and those benefits, where applicable, will also appear on the CAP customer's bill. These changes will require PECO to interact with its CAP customers and the agencies that interact with low income customers and qualify customers for and educate customers about this program. PECO will be issuing educational messages to its CAP customers and community agencies about the forthcoming changes. And, once these changes appear on CAP customer bills, PECO will also be informing customers about the specific impact of these changes on their bill payment requirements. Once the new benefits begin appearing on CAP customer bills, PECO will no doubt receive calls and communications from customers who will need significant education and explanation about these changes and their impact on the CAP customer bill payment requirements. It would be detrimental to CAP customers and the community agencies that interact with these customers to impose another set of educational messages and communications concerning customer choice at the same time.

OCA St. 2-R at 1-2. Ms. Alexander concluded that if the two changes are implemented at or near the same time, there will likely be customer confusion and it would "contribute to the potential for adverse customer bills and affordability." OCA St. 2-R at 3.

The OCA submits that the CAP Shopping Plan should not be implemented until June 1, 2017, at the earliest. Implementation for June 1, 2017 will allow CAP customers to experience approximately three quarterly cycles of bill changes under the new CAP program design. A June 1, 2017 implementation will provide CAP customers with the ability to better understand the impact of the program design changes on their monthly bill, then be further educated and informed about shopping so as to make more effective CAP shopping decisions.

VII. CONCLUSION

For the reason set forth in this Reply Brief, and those contained in the Office of Consumer Advocate's Initial Brief, the Office of Consumer Advocate respectfully requests that the fundamental framework of the CAP Shopping program, and the CAP-SOP, be approved as proposed by CAUSE-PA witness Geller. The OCA submits that PECO should be required to establish a stakeholder process to develop protocols for the CAP-SOP for service beginning June 1, 2017. The OCA also respectfully requests that the CAP Shopping Plan be implemented no earlier than with the commencement of the DSP IV proceeding, on or about June 1, 2017.

Respectfully Submitted,


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DATE: August 25, 2016
225073.doc

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of PECO Energy Company :
For Approval of its Default Service :
Program for the Period Service Plan : Docket No. P-2016-2534980
For the Period from June 1, 2017 Through :
May 31, 2019 :

I hereby certify that I have this day served a true copy of the following documents, the Office of Consumer Advocate's Reply Brief, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code Section 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 25th day of August 2016.

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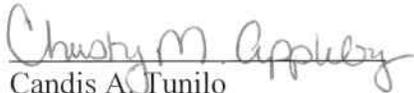
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