



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

IN REPLY PLEASE
REFER TO OUR FILE

August 25, 2016

Secretary Rosemary Chiavetta
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Re:

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

Dear Secretary Chiavetta:

Enclosed please find the Bureau of Investigation and Enforcement's (I&E)
Response to the Objections of Noble Americas Energy Solutions LLC in this
proceeding.

Copies are being served on all active parties of record as evidenced in the attached
Certificate of Service. If you have any questions, please contact me at (717) 783-6151.

Sincerely,

Phillip C. Kirchner
Prosecutor
Bureau of Investigation and Enforcement
PA Attorney I.D. #313870

PCK/sea
Enclosure

cc: ALJ Cynthia W. Fordham
Certificate of Service

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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Petition of PECO Energy Company for :
Approval of its Default Service Program :
For the Period from June 1, 2017 through : P-2016-2534980
May 31, 2019 :

THE BUREAU OF INVESTIGATION AND ENFORCEMENT'S RESPONSE TO THE
OBJECTIONS OF NOBLE AMERICAS ENERGY SOLUTIONS LLC

TO ADMINISTRATIVE LAW JUDGE CYNTHIA WILLIAMS FORDHAM:

The Bureau of Investigation and Enforcement ("I&E") of the Pennsylvania Public Utility Commission ("Commission") respectfully submits the following response to the objections raised by Noble Americas Energy Solutions LLC in opposition of the Joint Petition for Partial Settlement in the above-captioned docket in accordance with the procedure and schedule approved by ALJ Fordham via email on July 28, 2016.

I. DISCUSSION

1. On August 11, 2016, Noble Americas Energy Solutions LLC ("Noble"), by and through its counsel, filed Objections to the Joint Petition for Partial Settlement in lieu of an initial brief in this matter pursuant to Prehearing Order #3 issued by Administrative Law Judge Cynthia Williams Fordham on July 21, 2016 and email correspondence dated July 28, 2016.

2. In aforementioned objections, Noble claims that PECO's Non-Bypassable Transmission Charge ("NBT") for the collection and recovery of non-market based PJM

transmission charges is not within the jurisdiction of the PA Public Utility Commission despite acknowledging that this is a continuation of a previously approved and accepted practice from PECO's DSP III¹.

3. Noble also claims that the NBT is “[u]njust, [u]nreasonable, and [u]nduly [d]iscriminatory”² but cites no metrics or case law pertinent to this point, instead relying on unfounded pejoratives in its argument.

4. Additionally, Noble maintains that this NBT interferes with their “rights... to directly bill shopping customers for their PJM transmission charges”³ but provides no legal foundation for these alleged “rights” nor any substance to its claim that the NBT is discriminatory despite recognizing that the NBT is applied across all EGS's.

5. Noble is the only party to this proceeding objecting to this otherwise unanimous partial settlement propounded by PECO, the Bureau of Investigation and Enforcement, the Office of Consumer Advocate, the Office of Small Business Advocate, the Coalition for Affordable Utility Service and Energy Efficiency in Pennsylvania, Direct Energy Services, LLC, the Philadelphia Area Industrial Energy Users Group and the Retail Energy Supply Association.

6. The NBT at issue in Noble's objection has already been fully considered and decided by the Public Utility Commission in PECO's DSP III proceeding⁴.

¹ Noble Americas Energy Solutions LLC's Objections to the Joint Petition for Partial Settlement – Pg. 4

² Noble Americas Energy Solutions LLC's Objections to the Joint Petition for Partial Settlement – Pg. 7

³ Noble Americas Energy Solutions LLC's Objections to the Joint Petition for Partial Settlement – Pg. 9

⁴ Petition of PECO Energy Co. for Approval of Its Default Serv. Program for the Period from June 1, 2015 Through May 31, 2017, P-2014-2409362.

7. The Commission explicitly stated in DSP III “that the non-bypassable recovery of certain PJM transmission charges is beneficial to customers”⁵ and found to be in the public interest with subsequent approval and adoption at that docket.

8. Accordingly, I&E maintains that all objections raised in the instant proceeding by Noble are effectively precluded as *res judicata*.

II. CONCLUSION

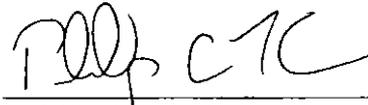
9. As noted before in I&E’s Statement in Support, based upon I&E’s analysis of the filing, the acceptance of this proposed Partial Settlement is a just and reasonable resolution. I&E also avers that the issue objected to by Noble is an attempted resurrection of an issue that was already addressed by the PUC and implemented in PECO’s DSP III.

10. Accordingly, the Bureau of Investigation and Enforcement respectfully requests that ALJ Fordham, and subsequently the Public Utility Commission, adopt the Partial Settlement in this matter.

⁵ *Id* at 27.

WHEREFORE, the Commission's Bureau of Investigation and Enforcement, by and through undersigned Prosecutor, avers that it supports the *Joint Petition for Partial Settlement* as being in the public interest despite the Objections of Noble and respectfully requests that Administrative Law Judge Fordham recommend, and the Commission subsequently approve, the foregoing Partial Settlement as outlined in the Joint Petition, including all terms and conditions contained therein.

Respectfully Submitted,



Phillip C. Kirchner, Esq.
Prosecutor
PA Attorney I.D. # 313870

Bureau of Investigation and Enforcement
Pennsylvania Public Utility Commission
Post Office Box 3265
Harrisburg, Pennsylvania 17105-3265

Dated: August 25, 2016

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

CERTIFICATE OF SERVICE

I hereby certify that I am serving the foregoing **Response to the Objections of Noble Americas Energy Solutions** dated August 25, 2016, in the manner and upon the persons listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party):

Served via First Class and Electronic Mail

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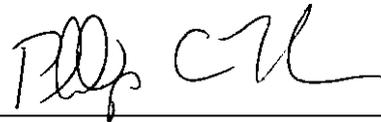
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