

COMMONWEALTH OF PENNSYLVANIA



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November 28, 2016

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

Re: 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

Dear Secretary Chiavetta:

Attached for electronic filing please find the Office of Consumer Advocate's Answer to the Retail Energy Supply Association's Petition for Reconsideration in the above-referenced proceeding.

Copies have been served as indicated on the enclosed Certificate of Service.

Respectfully submitted,

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

Attachment

cc: Honorable Charles E. Rainey, Jr., Chief ALJ
Certificate of Service

227477

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of PPL Electric Utilities Corporation for :
Approval of a Default Service Program and : Docket No. P-2016-2526627
Procurement Plan for the Period :
June 1, 2017 Through May 31, 2021 :

ANSWER
OF THE
OFFICE OF CONSUMER ADVOCATE

Pursuant to Section 5.572(e) of the Pennsylvania Public Utility Commission (Commission) regulations, 52 Pa. C.S. § 5.572(e), the Office of Consumer Advocate (OCA) hereby files this Answer to the Retail Energy Supply Association’s (RESA) Petition for Reconsideration of the Commission’s Final Order entered October 27, 2016 (October Order) in the above-captioned proceeding. For the reasons set forth below, the OCA opposes RESA’s Petition.

I. INTRODUCTION

On November 14, 2016, RESA filed its Petition for Reconsideration of the Commission’s October 27, 2016 Final Order in the above-captioned proceeding. RESA seeks reconsideration of the Commission’s Opinion and Order of October 27, 2016 regarding PPL Electric Utilities Corporation’s (PPL or Company) proposed Customer Assistance Program (CAP) Shopping program, the CAP-SOP.¹ In that Order, the Commission approved the “Joint Litigation Position” for implementation of a CAP Shopping Plan to establish the rules for CAP customers

¹ On November 16, 2016, the Commission acted to grant the Petition for Reconsideration, pending review of the merits of the Petition.

to participate in the retail electric choice market. October Order at 66.² The Joint Litigation Position also requested that the Commission establish a statewide collaborative to address CAP Shopping on a long-term basis. In its Order, the Commission stated that it would take the recommendation for a statewide collaborative “under advisement, noting that the Commission has the authority to open a separate docket to initiate a statewide proceeding to explore CAP customer shopping issues if we decide to undertake this endeavor in the future.” October Order at 56. The Commission referred the issue of the statewide collaborative to the Commission’s Office of Competitive Market Oversight for review and analysis before making a final determination regarding whether a statewide collaborative is necessary. October Order at 56.

In its Petition for Reconsideration, RESA argues that reconsideration is necessary for two reasons. Petition at ¶ 13. RESA argues: (1) that the Commission erred as a matter of law by not performing a legal analysis of alternatives to the proposed CAP shopping rules and (2) that the Commission overlooked or failed to give the proper weight to the evidence in the record regarding why the proposed CAP-SOP would eliminate EGS participants from the market. Petition at ¶ 13. The OCA submits that the Commission has already considered and rejected RESA’s arguments. As such, RESA has not met the standards for reconsideration.

RESA’s argument that the Commission did not perform a legal analysis of CAP shopping alternatives is a re-packaging of its Exception Number 1 to the ALJ’s Initial Decision. In

² The Joint Litigation Position Among Certain Parties Regarding CAP Shopping (Joint Litigation Position) was proposed by PPL, the OCA, Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA) and the Bureau of Investigation and Enforcement (I&E) as a reasonable interim step to address CAP shopping concerns while a statewide solution is developed. See, Joint Litigation Position; PPL St. 1-RJ. The Joint Litigation Position establishes a CAP-SOP program that would be designed to mitigate the impacts of CAP Shopping on CAP customers, CAP credits paid for by other non-CAP residential customers, and the risk of early removal from PPL’s CAP program pending a statewide resolution of the CAP customer shopping issue. See, PPL St. 1-RJ. The Joint Litigation position also requests that the Commission implement a statewide collaborative regarding CAP customer shopping. See, PPL St. 1-RJ.

its October 27 Order, the Commission fully addresses this argument and rejected RESA's position. See, October Order at 40-56.

Likewise, RESA's second argument for reconsideration that the Commission failed to consider that EGSs would not serve CAP customers under the CAP-SOP was specifically rejected by the ALJ and the Commission. See, October Order at 56-66. The Commission unequivocally stated, "[W]e shall reject the position espoused by RESA that EGSs will not participate in the proposed CAP-SOP shopping proposal." October Order at 66. RESA's request for reconsideration on this point must fail.

RESA presents no new or novel arguments that warrant reconsideration of the proposed CAP-SOP. Moreover, the CAP-SOP is similar in design to the successful regular residential Standard Offer Program (SOP). The OCA files this Answer in opposition to RESA's Petition for Reconsideration of the October 27, 2016 Order.

II. LEGAL STANDARD

The standard for reconsideration is found in the Public Utility Code at Section 703(f), 66 Pa. C.S. § 703(f), which provides that a party must file for reconsideration within 15 days after the service of the order. See also 52 Pa. Code § 5.572. In further enunciating the standard for reopening a final order for reconsideration, the Commission has determined as follows:

[B]ecause a grant of relief on such petitions may result in the disturbance of final orders, it should be granted judiciously and only under appropriate circumstances. (*West Penn Power v. Pa. PUC*, 659 A.2d 1055 (Pa. Cmwlth. 1995), petition for allowance of appeal denied, No. 576 W.D., Allocatur Docket (April 9, 1996) (*West Penn Power*); *City of Pittsburgh v. PennDOT*, 490 Pa. 264, 416 A.2d 461 (1980).)

We have held that such petitions must make new or novel arguments not previously considered or raise matters which are designed to convince us to exercise our discretion to rescind or amend the Order under consideration. (*Duick v. PG & W*, 56 Pa. P.U.C. 553, 51 P.U.R. 4th 284 (1982) (*Duick*), (citing *Pa. Railroad Co. v. Pa. PSC*, 118 Pa. Superior Ct. 380, 179 A. 850 (1935).)

Pa. PUC v. PECO Energy Co., 1999 Pa. PUC LEXIS 24, *10-11 (PECO).

The Commission set forth the standards for granting a petition for reconsideration in Duick v. Pennsylvania Gas and Water Co., 56 Pa.PUC 53 (1985):

A petition for reconsideration, under the provisions of 66 Pa.C.S. § 703(g), may properly raise any matters designed to convince the Commission that it should exercise its discretion under this code section to rescind or amend a prior order in whole or in part. In this regard we agree with the Court in the Pennsylvania Railroad Company case, wherein it was stated that “[p]arties ..., cannot be permitted by a second motion to review and reconsider, to raise the same questions which were specifically considered and decided against them...” What we expect to see raised in such petitions are new and novel arguments, not previously heard, or considerations which appear to have been overlooked or not addressed by the Commission. Absent such matters being presented, we consider it unlikely that a party will succeed in persuading us that our initial decision on a matter or issue was either unwise or in error.

56 Pa.PUC at 559 (quoting Pennsylvania R.R. Co. v. Pa. Pub. Util. Comm’n, 118 Pa. Super. 380, 179 A.850 (1935)).

In its Order, the Commission fully and completely addressed the legal and factual issues involved in the CAP Shopping Plan including the issues raised by RESA here and in the case below. With regard to the legal analysis of the proposal involved here, the Commission held as follows:

[b]ased upon our review of the evidence of record, the Exceptions of RESA and Replies thereto, as well as the applicable legal decisions and regulatory requirements, we are persuaded by the position of the Joint Parties that their proposed CAP-SOP is a reasonable and appropriate recommendation to address the unique circumstances in this case which have resulted from the unrestricted ability of PPL’s CAP customers to engage in the competitive electric marketplace. We find that the Joint Parties have met their burden of proof that the CAP-SOP proposal has merit and that the Commission should adopt this proposal on an interim basis. We do not come to this conclusion lightly, as this Commission has been steadfast in its support of the competitive electric generation market in Pennsylvania. However, based upon the substantial and unrefuted evidence presented by PPL in this proceeding, it is incumbent upon the Commission to

address this matter in a reasonable and prudent fashion to balance the competing objectives with the Competition Act. It is vitally important that the existing CAP programs be administered in a financially responsible fashion consistent with our obligations under the Competition Act to foster competitive electric markets.

October Order at 53.

Regarding the evidence of record, the Commission held as follows:

Based upon our review and analysis of the evidence of record, as well as the Exceptions and Replies thereto, we shall reject the position espoused by RESA that EGSs will not participate in the proposed CAP-SOP shopping proposal. In consideration of RESA's argument on this issue that the CAP-SOP proposal will result in a lack of EGS participation, we conclude that as the current SOP program has extensive EGS participation this argument is speculative. We find that RESA's position amounts to unsupported assertions and has no basis whatsoever in the record. Additionally, the proposed CAP-SOP includes a provision that the Parties will have the ability to petition the Commission to reopen the CAP-SOP in the event that there is no EGS participation in the program and/or there are changes in retail market conditions that would otherwise justify reopening the CAP-SOP.

Accordingly, we shall deny the Exceptions of RESA on this issue.

October Order at 66. The OCA submits that the Commission addressed the issues based on a thoroughly developed record, fully briefed by the parties. There is nothing in the Petition for Reconsideration that is new, novel, or demonstrates a legal error.

III. ANSWER

A. Introduction

RESA seeks reconsideration of the Commission's approval of the proposed CAP Shopping Plan as presented in the Joint Litigation Position, the CAP-SOP. RESA argues that the Commission erred in its legal analysis and did not appropriately address potential alternatives to the Joint Litigation Position. Petition at ¶¶ 13-18. RESA also argues that the Commission failed to give proper weight to the evidence in the record regarding why a CAP-SOP "would eliminate

EGS provided products for CAP participants.” Petition at ¶¶ 13, 19-24. The OCA submits that the Commission in its October 27 Order, and the ALJ in her underlying Initial Decision, applied the correct legal standard, examined each of the issues identified in RESA’s Petition for Reconsideration and came to the correct conclusion that the CAP shopping protections were needed to ensure affordability for CAP customers and reasonable program costs for those supporting the program. The Commission’s Order to approve the Joint Litigation Position was based upon the undisputed identified harms to CAP customers and non-CAP residential ratepayers who pay the costs of the program.

B. The Commission’s Order did not err as a matter of law.

RESA argues that the Petition for Reconsideration is appropriate because the Commission erred as a matter of law “by not engaging in the legal analysis of reasonable alternatives to the restrictions proposed in this proceeding.” Petition at ¶ 13. The OCA submits that the legal standard argued by RESA is not the standard established by the Commonwealth Court in the PECO CAP Shopping case. Moreover, the alternatives to the CAP-SOP were considered and addressed by the Commission and the ALJ in this case.

RESA argues that the Commission did not correctly apply the legal standard set forth in the PECO CAP Shopping case. Petition at ¶ 12, citing CAUSE-PA et al. v. Pa. PUC, 120 A. 3d 1087, 1106-1107 (Pa. Cmwlth. Ct. July 14, 2015), *cert denied* 2016 Pa. LEXIS 723 (Pa. April 5, 2016) (PECO CAP Shopping). RESA argues that “restrictions on the right of all customers to freely shop can only be considered upon a showing of substantial reasons why there are no reasonable alternatives to the proposed restriction on competition.” Petition at ¶ 12. Then, even if this legal standard is met, RESA argues that the Commission may still rely on “substantial evidence showing why the proposed restrictions should be rejected which can include a showing

that the restrictions would adversely affect available choices for CAP participants.” Petition at ¶ 12. The OCA submits that RESA’s interpretation of the Court’s Order is incorrect. The Court clearly held that the Commission has the authority to impose CAP rules that would limit EGS offers. *Id.* at 1103-1104. The Commission addressed the appropriate legal standard in its October Order as follows:

[w]e conclude that our decision to approve the CAP-SOP is consistent with the Commonwealth Court’s decision in CAUSE-PA. In that case, the Court held that we have the authority under Section 2804(9) of the Competition Act, for the purpose of ensuring that universal service plans are adequately funded and cost-effective, to approve CAP rules that would limit the terms of an offer from an EGS which a customer could accept and remain eligible for CAP benefits. CAUSE-PA at 1103. The Court stated as follows:

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 of low income to afford electric service, the [Commission] 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.*, an EGS rate ceiling, a prohibition against early termination/cancellation fees, etc.” *Id.* at 1104.

October Order at 53-54.

The Commission properly recognized that it has a dual responsibility under the Electricity Generation Customer Choice and Competition Act (Customer Choice Act) regarding both universal service and retail choice. 66 Pa. C.S. §§ 2802 (9), (10), (14), (17), 2803, 2804(8)-(9), and 501 (a), (c). The dual responsibility requires the Commission to maintain affordable, cost-effective universal service programs and provides that the Commission may exercise that authority to implement shopping rules for the universal service programs.

The Commission's Order adopted ALJ Colwell's legal analysis regarding the proposed CAP-SOP. In the Initial Decision below, ALJ Colwell correctly addressed the legal requirements for a CAP Shopping Plan:

Accordingly, the EDCs, including PPL Electric, must maintain viable and fully-funded CAP and other universal service programs for the assistance of low-income customers. The funding, although monitored through the reports and litigated program filings, see Pa. Code §§ 54.75 and 54.76, is provided by the other ratepayers in the class. The Commission must ensure that every rate is just and reasonable, 66 Pa. C.S. § 1301, and non-discriminatory, 66 Pa. C.S. § 1304. In other words, the charge that pays for universal service and CAP must be reasonable.

The commitment of the Commission and the Pennsylvania Legislature to providing additional safeguards and programs for assistance and protection of low-income Pennsylvanians has been unwavering. The Public Utility Code mandates these programs and requires the Commission to oversee them. The Commission recognizes the importance of the mandate and wrote its regulations to provide clear direction in the development and implementation of the programs which are meant to act as a safety net to catch the most vulnerable customers. After years of Commission vigilance in the enforcement of protections and programs for the well-being of low-income families, it is simply inconsistent to find that the unfettered vibrancy of the competitive market supersedes the value of ensuring the success of customer assistance programs that are vital to assist those customers in meeting their energy bills.

I.D. at 43-44.

In its Petition, RESA never mentions one of the most crucial aspects of any CAP Shopping Plan, and the most determinative factor in the Commission's decision – how the Plan will impact the CAP customer and the non-CAP residential customers who pay the costs of the program. The Customer Choice Act requires that the legal analysis must also include the impact of retail competition on the affordability and cost-effectiveness of the CAP programs. 66 Pa. C.S. §§ 2802 (9), (10), (14), (17), 2803, 2804(8)-(9). The overwhelming substantial evidence presented in this case demonstrates that there has been significant harm to both CAP shopping

customers and non-CAP residential ratepayers who pay the costs of the program. The harms identified require that a change be made to PPL's current CAP shopping program.

The Commission's Order concluded:

[t]he Parties presented substantial evidence in support of the proposed CAP-SOP, as well as evidence regarding why other alternatives would not be reasonable. The data provided by PPL in this proceeding demonstrated the economic harm experienced as a result of unrestricted CAP customer shopping decisions. The identified economic harm affects the ability of CAP customers to remain on CAP, as higher costs result in a quicker erosion of the CAP customers' limited allocation of CAP credits and also affects non-CAP customers by increasing the subsidy they incur to support the universal service objectives within the Competition Act. We find that this unrefuted evidence is sufficient to permit the Commission to impose CAP rules that may partially restrict or limit the ability of these customers to shop for electricity. In essence, we agree with the ALJ that mitigation is required to balance the interests between shopping and non-shopping customers. The CAP-SOP proposal of the Joint Parties, however, does not eliminate the ability of these customers to participate in the competitive marketplace. To the contrary, these customers will retain the ability to shop by participation in a form of the SOP, which provides a 7% discount off the PTC price in effect at the time of enrollment, which has been determined to be very successful in Pennsylvania since its inception.

October Order at 54-55.

The OCA submits that the Commission's Order, and the ALJ's underlying Initial Decision, thoroughly analyze the alternatives presented to the CAP-SOP. RESA's Petition for Reconsideration disregards the reliance of the Commission's Order on the undisputed harms to CAP customers and non-CAP residential ratepayers caused by unrestricted CAP customer shopping in PPL's service territory. The Commission correctly applied the record evidence to the law and determined that CAP Shopping protections were necessary in order for PPL to provide a CAP program that is affordable for CAP customers and cost-effective.

C. The Commission's Order appropriately addressed the record evidence.

RESA argues that the Commission overlooked or failed to give proper weight to the evidence in the record showing why the proposed CAP-SOP restrictions would eliminate EGS

participation. Petition at ¶¶ 13. RESA states that the proposed Joint Litigation Position proposal of the CAP-SOP was not developed until the Rejoinder phase of the proceeding, and therefore, RESA was denied the opportunity for a “proper vetting of the specific restrictions or other alternatives.” Petition at ¶ 16. RESA incorrectly claims that the alternatives considered by the parties were not supported in the record, and that the record is “devoid of any evidence or other alternatives that were considered by the parties or the Commission.” Petition at ¶ 17. RESA, therefore, requests that if CAP shopping restrictions are necessary, the matter should be remanded to develop alternatives. Petition at ¶¶ 28-29.

RESA’s Petition implies that an alternative to the Company’s Initial Proposal was not presented until the Rejoinder Phase of the proceeding. See, Petition at ¶ 17. The OCA submits that this is incorrect. RESA’s Petition fails to identify the proposals presented by CAUSE-PA and OCA in this proceeding. See, discussion of alternatives, CAUSE-PA St. 1 at 4-10, 14-35, 37-38; OCA St. 2 at 22; CAUSE-PA St. 1-SR at 12-16; OCA St. 2-SR at 13; CAUSE-PA M.B. at 22, 26-33; CAUSE-PA R.B. at 9-13, 15-17; OCA R.B. at 7-13.

In his Direct Testimony, CAUSE-PA witness Geller proposed that a CAP Shopping Plan should prohibit a CAP customer from entering into a contract with an EGS in which the CAP customer would pay, at any time, a price higher than the Price to Compare and that CAP customers should not be charged early cancellation or termination fees. CAUSE-PA St. 1 at 34-35. In Surrebuttal Testimony, CAUSE-PA witness Geller proposed modifications to PPL’s regular SOP program for CAP customers to ensure that CAP customers were not charged more than the Price to Compare and were not charged early cancellation or termination fees. See, CAUSE-PA St. 1-SR at 18-20.

In her Direct Testimony, OCA witness Alexander testified that the alternative of maintaining the status quo was unreasonable given the evidence of record. OCA St. 2 at 21-22. As a result, OCA witness Alexander testified that the Commission should order PPL to put in place protections to ensure that the continuing harms were halted. OCA St. 2 at 21-22. For CAP customers, Ms. Alexander testified that, “The most vital criterion for any program reform must be to ensure that OnTrack customers do not pay more for essential electric service than what PPL would charge for default service.” OCA St. 2 at 21. To effectuate this consumer protection for all CAP customers, Ms. Alexander testified:

It is possible that PPL can implement a program rule that EGSs who seek to serve CAP customers, if at all, must do so at a rate that is at or below the applicable PTC. This approach would not require PPL to monitor EGS terms and conditions or be responsible for enforcing the terms of EGS contracts. PPL could establish a shopping program for CAP customers similar to the SOP where approved EGSs are authorized to make offers to CAP customers. Alternatively, since PPL bills and collects for EGSs, it could notify the EGS and the customer when a price is charged that is higher than the PTC.

OCA St. 2 at 21-22. OCA witness Alexander further recommended that a stakeholder process should be ordered to implement these specific protections. OCA St. 2 at 22.

In its Direct Testimony, PPL recognized the existing harms from CAP Shopping, and proposed its “Initial Proposal” to establish a statewide collaborative and to “encourage” CAP customers to enroll in the regular SOP program. PPL St. 1 at 44-48. In Rejoinder Testimony, PPL witness Rouland testified that he supported CAUSE-PA’s proposed CAP-SOP proposal with modifications. PPL St. 1-RJ at 6-10. The modified CAP-SOP proposal presented in PPL witness Rouland’s Rejoinder Testimony is the Joint Litigation Position of CAUSE-PA, OCA, I&E and PPL. See, Joint Litigation Position; see also, PPL St. 1-RJ at 6-10.

As to RESA’s argument that the Commission had insufficient opportunity to assess these alternatives in the record, RESA was afforded an opportunity for written Rejoinder of CAUSE-

PA witness Geller's Surrebuttal Testimony initially presenting the CAP-SOP. See, Petition at ¶¶ 16-17. RESA was further provided an opportunity to cross-examine PPL witness Wukitsch on his Rejoinder Testimony position, and chose not to do so. Tr. at 33.

The OCA submits that the Commission's Order and the ALJ's Initial Decision directly address the presented record evidence of a need for change to the current CAP shopping program and these identified alternatives. The Commission's Order summarized the Initial Decision's consideration of the alternatives presented:

The ALJ found that it is not feasible to require that the Joining Parties present an exhaustive list of all possible alternatives and discuss each one critically. According to the ALJ, they have shown that they weighed alternatives and are actively promoting the Joint Litigation Position as the best plan. The ALJ concluded that it is legally sufficient to show that alternatives have been evaluated and rejected in favor of the plan ultimately promoted, and to counter the alternatives raised by the party or parties opposing the choice.

October Order at 34. The Commission stated that:

[w]e are in agreement with the ALJ that it is not feasible to require the Joint Parties to identify all possible alternatives. Rather, we find that several alternatives were, in fact, considered by the Parties, but that they ultimately determined that the Joint Litigation Position was the reasonable such alternative. We conclude that none of the alternatives suggested by RESA are acceptable alternatives. We further agree with the ALJ that RESA's recommendation to impose no restrictions on CAP shopping and to only encourage CAP customers to use the SOP is simply insufficient. We conclude that this recommendation fails to protect CAP shoppers from the negative effects of paying more than the PTC and maximizes the burden on other Residential customers who fund the CAP program and, as such, is not a viable alternative.

October Order at 55.

The OCA submits that the CAP-SOP was the best of several alternatives provided on the record of the proceeding. The Commission's Order shows that it fully evaluated the record, and RESA has not met its burden for reconsideration on this issue.

D. The Commission's Order appropriately considered RESA's testimony regarding EGS participation in the CAP-SOP.

RESA argues that the Commission overlooked or failed to give appropriate weight to the evidence in the record regarding EGS participation in the CAP-SOP. Petition at ¶¶ 19-23. RESA argues that the Commission’s characterization of EGS participation is “speculative” and that EGS participation in the CAP-SOP will be inhibited if a \$28 referral fee is charged to EGSs. Petition at ¶¶ 21, 24. RESA argues that CAP customers will lose the ability to participate in the competitive marketplace. Petition at ¶ 26. The OCA submits that the Commission did not overlook or give improper weight to the evidence in the record regarding potential EGS participation in a CAP-SOP.

RESA’s arguments in its Petition for Reconsideration are identical to its arguments in its Exceptions to the ALJ’s Initial Decision regarding EGS participation and in its Main Brief. RESA argues that if implemented, the Joint Litigation Position will eliminate all shopping opportunities for CAP customers and prevent CAP customers from having the opportunity to freely shop. The OCA submits that RESA has provided no evidence whatsoever that EGSs will decline to participate in a CAP-SOP or that CAP customers will not participate in the CAP-SOP. OCA R.B. at 16-18; OCA Reply Exc. at 13-14.

The Commission’s Order and the ALJ’s Initial Decision directly addressed RESA’s arguments on this issue, and there are no grounds for reconsideration on this point. October Order at 66; I.D. at 60-61. The Commission determined that:

In consideration of RESA’s argument on this issue that the CAP-SOP proposal will result in a lack of EGS participation, **we conclude that as the current SOP has extensive EGS participation this argument is speculative.** We find that RESA’s position amounts to unsupported assertions and has no basis whatsoever in the record. Additionally, the proposed CAP-SOP includes a provision that the Parties will have the ability to petition the Commission to re-open the CAP-SOP in the event that there is no EGS participation in the program and/or there are changes in retail market conditions that would otherwise justify reopening the CAP-SOP.

October Order at 66 (emphasis added).

Throughout its Petition for Reconsideration, RESA refers to the CAP-SOP proposal as a “shutting down” of competition for CAP customers. The OCA submits that this characterization is inaccurate, inappropriate, and was rejected by the Commission. The CAP-SOP is designed to provide a vehicle for CAP customers to shop. What RESA’s Petition for Reconsideration does not acknowledge is that the Joint Litigation Position is meant to be an interim solution designed to prevent further harm until the Commission can develop a more permanent statewide solution through a collaborative or rulemaking on CAP customer shopping. While the Commission’s Order does not order a separate docket be opened at this time, the Commission’s Order specifically referred the issue of a statewide collaborative on CAP customer shopping to the Office of Competitive Market Oversight. October Order at 56.

Moreover, as the Commission’s Order identifies, the Joint Litigation Position establishes a fail-safe in the event that EGSs elect not to participate in the CAP-SOP market. See, October Order at 66. The Joint Litigation Position provides that:

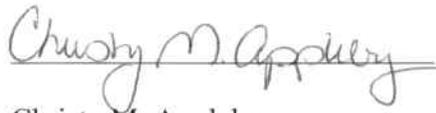
Until a uniform, statewide approach to CAP shopping can be developed, the parties reserve the right to petition the Commission to re-open the CAP-SOP in the event that there is no EGS participation in the program and/or there are changes in retail market conditions that would otherwise reopening the CAP-SOP.

Joint Litigation Position at 4. The OCA submits that this “fail-safe” provides the appropriate balance. RESA’s request for reconsideration of this issue is without merit and must be rejected.

IV. CONCLUSION

For the reasons set forth above, the OCA respectfully submits that RESA's Petition for Reconsideration of the Commission's October 27, 2016 Order should be denied, consistent with the OCA's Answer. RESA has not met the standard required for reconsideration and further, its positions have already been considered and properly denied by the Commission.

Respectfully Submitted,



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DATE: November 28, 2016

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CERTIFICATE OF SERVICE

Petition of PPL Electric Utilities Corporation :
For Approval of a Default Service Program : Docket Nos. P-2016-2526627
And Procurement Plan for the Period :
June 1, 2017 through May 31, 2021

I hereby certify that I have this day served a true copy of the following document, the Office of Consumer Advocate's Answer to the Retail Energy Supply Association's Petition for Reconsideration, 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 28th day of November 2016.

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