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December 15, 2016

**Via Electronic Filing**
Rosemary Chiavetta, Secretary
PA Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: PECO Energy Company's Pilot Plan for an Advance Payments Program Submitted Pursuant to 52 Pa. Code § 56.17

PECO Energy Company's Petition for Temporary Waiver of Portions of the Commission's Regulations With Respect to the Plan
Docket No. P-2016-2573023

Dear Secretary Chiavetta:

Enclosed for electronic filing please find the Comments of Direct Energy with regard to the above-referenced matter. Copies to be served in accordance with the attached Certificate of Service.

Sincerely,

Deanne M. O'Dell

Deanne M. O'Dell

DMO/lww
Enclosure

cc: Cert. of Service w/enc.

## CERTIFICATE OF SERVICE

I hereby certify that this day I served a copy of Direct Energy's Comments upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54.

**Via Email and/or First Class Mail**

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Dated: December 15, 2016

**BEFORE THE**
**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

| | | |
|---|---|---|
| PECO Energy Company's Petition for Plan for an Advance Payments Program Submitted Pursuant to 52 Pa. Code §56.17 | : | |
| and | : | Docket No. P-2016-2573023 |
| PECO Energy Company's Petition for Temporary Waiver of Portions of the Commission's Regulations With Respect to that Plan | : | |

## COMMENTS OF DIRECT ENERGY

## I. INTRODUCTION

Pursuant to the notice in the Pennsylvania Bulletin (46 Pa.B. 7232), Direct Energy Services, LLC, Direct Energy Business, LLC, Direct Energy Business Marketing, LLC, Direct Energy Small Business, LLC, Bounce Energy PA LLC, and Gateway Energy Services Corporation (collectively, "Direct Energy") submits these comments regarding the October 26, 2016 prepayment meter program filed by PECO Energy Company in which PECO proposes to allow certain residential customers/applicants to voluntarily enter a program in which they pay their bills for utility service in advance of receiving service ("PECO Prepayment Meter Program") .

Direct Energy opposes approval of PECO's Prepayment Meter Program on the basis that value-added products and services (to include varied billing options) should be offered through the competitive market and not by an electric distribution company such as PECO. Direct

Energy has offered a prepay product in Texas since 2010[1] and, in that jurisdiction, competes against many other electric generation suppliers ("EGSs") that also offer prepay billing options to retail customers. This variety of EGS-provided products and services (to include billing options) benefits consumers because EGSs are driven to continue to improve their products and services given the fact that they are competing against one another (not a default service or traditional monopoly provider) to serve customers. This causes EGSs to strive to create the products and services demanded by consumers. In this competitive environment, innovation grows and products are constantly improving and evolving to meet customer demand. The result for customers is a real choice among a variety of products and services from a variety of providers.

In Pennsylvania, EGSs do not and cannot offer prepaid billing options because, due to the lack of supplier consolidated billing, EGSs do not own the billing relationship (only the EDC does). Rather than taking steps to permit EGSs to offer the billing options they make available to customers in other jurisdictions, granting PECO's Petition would allow PECO to be the only entity to offer prepay billing options. This would plainly be unfair and anticompetitive. . It could also potentially stymie efforts that would permit EGSs to provide prepay billing options. For these reasons and as explained more fully below, Direct Energy recommends that the Commission reject PECO's proposal and, instead, direct PECO and interested stakeholders to focus resources on determining what infrastructure and regulatory changes PECO could implement to create an environment in which EGSs could provide prepay products.

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1 *See* https://www.firstchoicepower.com/power-to-go

## II. COMMENTS

In the current Pennsylvania market environment, approving PECO's Prepayment Meter Program will result in the EDC being the only entity to offer consumers a prepay billing option. While Direct Energy recognizes that PECO would make the option available to default customers as well as shopping customers, the prepay product will still be an EDC product (and branded as such), offered exclusively by the EDC, and EGSs' ability to utilize it would be controlled by the EDC. There would be no flexibility in this model for EGSs to "tweak" the prepay option for specific customers or an EGS's specific operations, to brand it as an EGS product or to in any way highlight for customers any EGS specific differences between the EGSs whose customers are availing themselves of the prepay product. Most importantly, the entity that would be viewed as providing this innovative product will be PECO, thereby enhancing the EDC's "brand" and creating customer appreciation and loyalty. This causes significant concern from a competitive market standpoint.

Fundamentally, approving PECO's program sets a bad precedent in terms of the role the EDCs are supposed to play regarding generation service. More specifically pursuant to the current structure in Pennsylvania, EDCs are to be the "provider of last resort" and the Commission is statutorily required to enact policies and processes that encourage a robust retail electricity market for generation. The Commission has already acknowledged "that keeping the EDC in the [default service provider] role presents structural barriers to a robust retail market place and that the EDCs should focus on their core competencies."[2] Enabling PECO – as the EDC and default service provider – to offer a product that EGSs can and do offer in other

2 *Investigation of Pennsylvania's Retail Electricity Market: End State of Default* Service, Docket No. I-2011-2237952, Final Order entered February 15, 2013 at 20.

jurisdictions (but cannot presently offer in Pennsylvania due to the absence of supplier consolidated billing) goes beyond the default service provider role and, in the end, will only serve to further entrench the historical customer relationship with the traditional monopoly provider through a deepening of PECO's relationship with customers. The result of this will be to reinforce any customer misimpression that EDC provided service is superior to EGS provided service.

Moreover, expending the time and ratepayer money now to implement PECO's Prepayment Meter Program will establish the mindset for Pennsylvania consumers that only the EDC can provide such a product. Thus, if there are changes in the current market which enable EGSs to offer their own prepay options, the availability of PECO's Prepayment Meter Program could negatively impact the desire of EGSs to offer competitive prepay options. This is because EGSs would need to put private investment money at risk to compete against a ratepayer funded product offered by the traditional monopoly provider who – by virtue of its EDC status – is also the "default service" provider. The gives PECO the advantage of being able to invest, essentially risk-free ratepayer funds, while leveraging its status in the market as both the default service and historical monopoly provider. EGSs simply cannot compete against this type of offering.

The same does not occur in a competitive market where similarly situated private entities are the only entities providing the products and services. This is because there is an equal and level playing field in which no EGS has the advantage of either serving customers on a default basis and no EGS has the advantage of an entrenched customer base due to its status as a traditional monopoly provider. Instead, all EGSs have the same incentive to develop the products and services that customers will elect to purchase and, if they are not successful in this regard, the EGSs risk being unable to continue to offer service. Inserting an EDC provided product, such as PECO's Prepayment Meter Program, fundamentally upsets this dynamic and – because of the special status of PECO as EDC and default service provider – will result in less innovation and less variety. In the end, consumers are the ones who will be harmed from this lack of diversity and innovation.

Permitting the entity that controls the essential bottleneck facilities (the electric distribution system) to provide a service that (at least theoretically) would compete with services provided by EGSs is also fraught with potential anti-competitive concerns. Even if EGSs were given the ability to provide such a billing service, there is a real risk that PECO could structure the rules for such things as the availability of information to make it hard – or impossible – for EGSs to compete. Moreover, since PECO will be able to "ratebase" the cost of developing, implementing and operating its "prepay" service, there is a real concern that it service will be subsidized by distribution customers. All of these concerns mean that permitting PECO to go ahead with its proposal will make it extremely difficult for other competitors to compete. The result will be that the Commonwealth will lose the benefits of such competition – competitive pricing, innovation and added value.

Rather than embarking upon this path of enabling PECO to offer the only and EDC-provided prepay option in Pennsylvania, Direct Energy supports refocusing the purpose of this proceeding on what infrastructure changes PECO could implement to incent EGS-provided prepay products. To that end, there may be changes that could be implemented in the context of PECO's Purchase of Receivables ("POR") program and/or consolidated billing requirements that could be implemented quickly to open up options for EGSs. Implementing supplier consolidated billing as proposed by NRG in its pending petition[3] is another infrastructure change that would address Direct Energy's concerns regarding PECO's proposal here. Embarking on implementation of such structural and regulatory changes would likely result in greater benefits for customers as many EGSs (including, if it wished, PECO's EGS affiliate, Constellation) would be able to provide innovative billing options to customers.

## III. CONCLUSION

As explained more fully above, Direct Energy recommends that the Commission reject PECO's Prepayment Meter Program because of the negative impact to the competitive retail electricity market that will ensue from allowing only the EDC which is the default service provider to offer a prepay billing option. Rather than approving PECO's proposal, Direct Energy supports the Commission and stakeholders focusing on infrastructure changes PECO could implement to incent EGS-provided prepay products. Refocusing this proceeding on more impactful infrastructure changes that would allow all EGSs a fair and full opportunity to bring these prepay products to Pennsylvanians is a more constructive and viable way to bring consumers the full benefit of prepay options.

Respectfully submitted,

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Date: December 15, 2016

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3 *Petition of NRG Energy, Inc. for Implementation of Electric Generation Supplier Consolidated Billing*, Docket No. P-2016-2579249, Petition filed December 8, 2016.