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Direct Dial: 215-841-6863

January 17, 2017

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, Second Floor
Harrisburg, PA 17120

**RE: PECO Energy Company Pilot Plan for an Advance Payments Program
and Petition for Temporary Waiver of Portions of the Commission's
Regulations with Respect to the Plan
Docket No.: P-2016-2573023**

Dear Ms. Chiavetta:

Enclosed for filing with the Commission are the *Reply Comments of PECO Energy* with regard to the matter referenced above.

Very truly yours,



Ward L. Smith
Counsel for PECO Energy Company

WS/ab
Enclosure

cc: Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PECO Energy Company Pilot Plan for an	:	
Advance Payments Program and Petition for	:	P-2016-2573023
Temporary Waiver of Portions of the Commission's	:	
Regulations with Respect to the Plan	:	

Reply Comments of PECO Energy Company

On October 26, 2016, PECO Energy Company (PECO) filed a Petition with the Pennsylvania Public Utility Commission (PUC or Commission) for approval of a pilot plan for an advance payments program (Plan) and for temporary waiver of portions of the Commission regulations that are reflected in the Plan (Petition). In its Petition, PECO requested that the Commission grant its Petition on the basis of written comments and reply comments, without utilizing an evidentiary hearing.

A Notice of the Petition was published in the Pennsylvania Bulletin on November 12, 2016. 46 Pa.B. 7232. The Notice directed comments to be filed with the Commission by no later than December 15, 2016, and reply comments to be filed by January 16, 2017.¹

Comments or supporting letters were filed by 18 stakeholders.² Although the comments are disparate as to scope and issues raised, many of the commenters opined that PECO's proposal is too complex or controversial to be resolved on the basis of written comments and reply comments, and

¹ The January 16 date for reply comments falls on Martin Luther King Day, which is a legal holiday recognized in the Commonwealth. By Commission regulation, the date for filing reply comments thus moves to the next business day, January 17, 2017. See 52 Pa. Code §1.12.

² The Commission's website has comments filed by: (1) the Commission's Bureau of Investigation & Enforcement (BI&E); (2) the Office of Consumer Advocate (OCA); (3) the Coalition for Affordable Utility Service and Energy Efficiency in Pennsylvania (CAUSE-PA); (4) Tenant Union Representative Network et al (TURN et al); (5) NRG Energy Inc; (6) AIDS Law Project; (7) AARP Pennsylvania; (8) PPL Electric Utilities Corporation; (9) the Retail Energy Supply Association; (10) Direct Energy; (11) Clean Air Council; (12) Duquesne Light Company; (13) Natural Resources Defense Council; (14) Workers Benefit Council; (15) Earth Quaker Action Team; (16) Neighborhood Energy Centers; (17) Montgomery County Community Action Development Committee, and (18) a support letter filed by the Health, Education and Legal Assistance Project: A Medical-Legal Partnership.

requested that the matter be assigned to the Office of Administrative Law Judge to be resolved on the basis of evidentiary hearings.

The next day – December 16, 2016 – the Commission issued a Notice of an Initial Call-In Telephonic Prehearing Conference, with the matter assigned to Administrative Law Judge Angela T. Jones. On December 21, 2016, Administrative Law Judge Jones issued her Prehearing Conference Order. The Prehearing Conference Order establishes a procedure to decide this matter on the basis of record evidence developed during evidentiary hearings, rather than on the basis of written comments and reply comments. In relevant part, the Prehearing Conference Order (Ordering Paragraph ¶3) sets forth the procedure by which the parties shall develop the evidentiary record, stating that:

Each party should consider the issue(s) you intend to present, a listing of your proposed witnesses and the subject of their testimony, a proposed procedural schedule, and if possible a settlement conference(s). Each party should be prepared to affirm this information during the prehearing conference. These items should be included in a prehearing memorandum that is sent to all known participants to this proceeding and the undersigned ALJ by or before 12 noon on January 20, 2017. See 52 Pa.Code § 5.222(d)(1) and (2).


The evidentiary record will thus be developed through the use of witness testimony, subject to the Rules of Evidence and the Commission's procedural regulations. This alternative evidentiary procedure supercedes and obviates the comment/reply comment procedure requested by PECO.

Nevertheless, PECO is filing these brief Reply Comments for two limited purposes. First, of the 18 stakeholders who filed comments or supporting letters, only five – BI&E, OCA, CAUSE-PA, TURN et al., and Duquesne Light Company – have taken steps to participate in the evidentiary hearings, and thus the remaining 13 commenters have not received formal notice that this matter will be resolved on the basis of evidentiary hearings, rather than written comments and reply comments. PECO is providing courtesy copies of its Reply Comments to all commenters so that they are aware of the ongoing evidentiary proceeding in this matter.

Second, while PECO recognizes that all parties will be required to establish their evidentiary cases through sworn testimony that withstands the crucible of litigation, PECO does wish to briefly note that it disagrees with a great deal of the unsworn commentary filed by the commenters. For example, PECO does not agree that its proposal creates a tier of “second class service.” *See* Comments of CAUSE-PA, p. 6. Indeed, as PECO understands it, the legal standard that will be used in the evidentiary litigation is whether it is providing “reasonable” utility service pursuant to 66 Pa.C.S. §1501. Within that framework, PECO believes that service that will be provided in the pilot will be “reasonable” within the meaning of Section 1501. To the extent that this debate will lead to classifications of first and second class service, PECO respectfully submits that it provides first class service – safe, reliable, and in compliance with the Commission’s rules and regulations -- to all of its customers. PECO believes that its prepaid service plan provides an additional payment option that some customers will find attractive, and that those customers will choose to participate in the pilot. Those who choose to participate in the pilot will continue to receive service that is first class.

Respectfully submitted,

Dated: January 17, 2017



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PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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Advance Payments Program and Petition for	:	P-2016-2573023
Temporary Waiver of Portions of the Commission's	:	
Regulations with Respect to the Plan	:	

Certificate of Service

I, Ward Smith, hereby certify that I have on this day served (or provided courtesy copies) of PECO Energy Company's Reply Comments on its Pilot Plan for Advance Payments Program and Petition for Waiver of Commission Regulations with respect to Plan Docket No. P-2016-2573023, on the following individuals and entities. Where an email is listed, a copy was provided electronically; otherwise a copy was sent by first-class mail.

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**COMMENTERS TO WHOM PECO IS PROVIDING COURTESY COPIES OF ITS
REPLY COMMENTS**

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January 17, 2017