

Deanne M. O'Dell  
717.255.3744  
dodell@eckertseamans.com

January 17, 2017

**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 Reply Comments of the Retail Energy Supply Association ("RESA") with regard to the above-referenced matter. Copies to be served in accordance with the attached Certificate of Service.

Sincerely,



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 RESA's Reply 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

Ward Smith, Esq.  
PECO Energy Company  
2301 Market St  
P.O. Box 8699  
Philadelphia, PA 19101-8699  
[Ward.smith@exeloncorp.com](mailto:Ward.smith@exeloncorp.com)

Lauren M. Burge, Esq.  
Harrison Breitman, Esq.  
Office of Consumer Advocate  
555 Walnut St., 5<sup>th</sup> Floor  
Forum Place  
Harrisburg, PA 17101-1923  
[lburge@paoca.org](mailto:lburge@paoca.org)  
[hbreitman@paoca.org](mailto:hbreitman@paoca.org)

Elizabeth Triscari  
Office of Small Business Advocate  
Commerce Building, Suite 202  
300 North Second St.  
Harrisburg, PA 17101  
[etriscari@pa.gov](mailto:etriscari@pa.gov)

Richard Kanaskie  
Bureau of Investigation and Enforcement  
PA Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265  
[rkanaskie@pa.gov](mailto:rkanaskie@pa.gov)

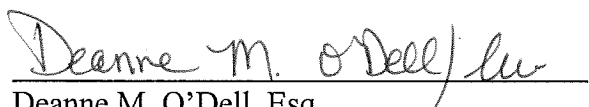
Robert Ballenger, Esq.  
Josie Pickens, Esq.  
Lydia Gottesfeld, Esq.  
Community Legal Services, Inc.  
1424 Chestnut St.  
Philadelphia, PA 19102  
[RBallenger@clsphila.org](mailto:RBallenger@clsphila.org)  
[jpickens@clsphila.org](mailto:jpickens@clsphila.org)  
[lgottesfeld@clsphila.org](mailto:lgottesfeld@clsphila.org)

Patrick Cicero, Esq.  
Joline Price, Esq.  
Elizabeth Marx, Esq.  
Pennsylvania Utility Law Project  
118 Locust St.  
Harrisburg, PA 17101  
[pulp@palegalaid.net](mailto:pulp@palegalaid.net)

Shelby Linton-Keddie, Esq.  
Duquesne Light Company  
800 North Third St., Suite 203  
Harrisburg, PA 17102  
[Slinton.keddie@duglight.com](mailto:Slinton.keddie@duglight.com)

Karen O. Moury, Esq.  
Eckert Seamans Cherin & Mellott  
213 Market St., 8<sup>th</sup> Fl.  
Harrisburg, PA 17101  
[kmoury@eckertseamans.com](mailto:kmoury@eckertseamans.com)

Dated: January 17, 2017

  
Deanne M. O'Dell, Esq.

**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                             | : |                           |

---

**REPLY COMMENTS OF  
THE RETAIL ENERGY SUPPLY ASSOCIATION**

---

On October 26, 2016, PECO Energy Company ("PECO") submitted its prepayment meter program with the Commission in which it 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 ("Prepay Pilot Program"). The purpose of PECO's filing is to set forth the details of its proposed Prepay Pilot Program and to request waivers of certain portions of the Commission's regulations in support of the pilot. Pursuant to notice in the *Pennsylvania Bulletin* (46 Pa.B. 7232), the Commission invited interested parties to file comments on or before December 15, 2016 and/or file reply comments on or before January 16, 2017.<sup>1</sup>

---

<sup>1</sup> The following day, on December 16, 2016, the Commission issued a Hearing Notice scheduling an initial prehearing conference for January 23, 2017 and, on December 21, 2016, Administrative Law Judge Angela T. Jones issued a Prehearing Conference Order directing the filing of prehearing memoranda before noon on January 20, 2017. Unfortunately, by referring PECO's petition to the OALJ and moving this petition into a potentially costly litigated proceeding, valuable time and resources are being needlessly distracted away from pursuing a far more beneficial outcome for consumers. This beneficial outcome would occur if the Commission and interested stakeholders focused their resources on effecting more impactful structural

Consistent with this invitation, the Retail Energy Supply Association (“RESA”)<sup>2</sup> filed comments on December 15, 2016 recommending that the Commission reject PECO’s Prepay Pilot Program and instead focus on making more impactful structural changes regarding the current billing structure that would open up a pathway for electric generation suppliers (“EGSs”) to offer their own prepay billing options (as they do in other jurisdictions). Many other interested stakeholders also filed comments. The majority of these comments advocate that the Commission deny PECO’s petition for reasons mainly focused on how a utility-provided prepay product may negatively impact consumer protections.

While RESA does agree that PECO’s Prepay Pilot Program should be rejected, RESA does not agree that it should be rejected based on the nature of the project. Prepay products are not inherently “bad” or something from which consumers must be “protected.” On the contrary, the experience of many competitive energy suppliers (including RESA members) that offer prepay products in other jurisdictions (notably Texas) has shown that consumers particularly appear to appreciate the following features: (1) no need to pay a security deposit; (2) not receiving any billing surprises at the end of their billing cycle; (3) the ability to pay as often and for as much as they desire; (4) daily account updates with balance and usage information; and, (5) the ability to receive information via alternate communication methods (i.e. SMS text messaging). Given the proven success of prepay options and the experience of many RESA

---

changes regarding the current billing structure to open up a pathway for EGSs to offer their own prepay billing options (as they do in other jurisdictions).

<sup>2</sup> The comments expressed in this filing represent the position of the Retail Energy Supply Association (RESA) as an organization but may not represent the views of any particular member of the Association. Founded in 1990, RESA is a broad and diverse group of more than twenty retail energy suppliers dedicated to promoting efficient, sustainable and customer-oriented competitive retail energy markets. RESA members operate throughout the United States delivering value-added electricity and natural gas service at retail to residential, commercial and industrial energy customers. More information on RESA can be found at [www.resausa.org](http://www.resausa.org).

companies offering prepay options to consumers, RESA fully supports bringing such opportunities to Pennsylvania consumers through the competitive market.

The issue here, though, and the reason RESA opposes PECO's proposal is that PECO's proposal would result in the monopoly utility providing the prepay product. As explained more fully in RESA's comments, innovation and responsiveness to customer needs occur when competitive companies, like EGSs, are competing with each other to acquire and keep customers. In such a market, the EGSs must continue to innovate and develop new and better products to attract and keep customers. In a situation where the EDC is relied upon to bring value-added products and services, such as prepay billing options, EGSs are disincentivized to develop their own EGS-provided products.<sup>3</sup> Stuck with only the "one-size-fits-all" EDC product, consumers are deprived of the opportunity to choose from a variety of competitive prepay products that best suit their individual needs and preferences. Thus, if PECO is successful and its prepay product is implemented, the end result would be a utility-provided prepay product that will stifle competitive market development of this product to the ultimate detriment of consumers.

In other words, RESA fully supports the ability of consumers to have access to a variety of prepay products but such products should be available only from the competitive market and not the utility. Concerns raised by other parties also appear to be related to the fact that PECO's petition would result in a utility-provided prepay product. More specifically, many advocates express concern that PECO's prepay program will appeal to (or target) households that are payment troubled and have previously been disconnected for non-payment and require these consumers to agree to waive all of their statutory and regulatory consumer protections including:

---

<sup>3</sup> RESA Comments at 6-8.

(1) the process a utility must follow to effectuate a termination; (2) the requirement of utilities to negotiate payment arrangements; and, (3) the prohibition on utilities from terminating service in the winter.<sup>4</sup> These issues, however, arise because the utility is providing the prepay product and trying to fit the product within traditional consumer protection regulations. The better way to achieve a good result for customers, however, would be to focus on how to enable the competitive market to provide prepay products and develop the appropriate consumer protections applicable to a competitively provided prepay product. This is how Texas has approached this issue, i.e. it has created applicable rules and requirements with which competitive suppliers must comply to offer prepay products.<sup>5</sup> Ultimately, consumers benefit from a competitive market that facilitates the development of prepay products from companies fairly competing with one another to design and offer prepay products where all competitors are required to follow the same reasonable rules regarding consumer protection. Such an outcome cannot result here because if the Commission elects to permit PECO's proposal to go forward, it would be a PECO-only solution that addresses issues from just one utility's mindset. In the end, innovation and competition will be stifled and consumers will not benefit.

A final point upon which RESA wishes to offer a reply is that while some commentators point to the Electricity Generation Customer Choice and Competition Act ("Competition Act") for support of their concerns regarding consumer protections,<sup>6</sup> equally important in any analysis of the Competition Act is how the proposal impacts the competitive market.<sup>7</sup> As explained more

---

<sup>4</sup> See, e.g., Comments of CAUSE-PA at 9-12.

<sup>5</sup> 16 Tex. Admin. Code § 25.498. Section 25.498(j) specifically addresses disconnection of service.

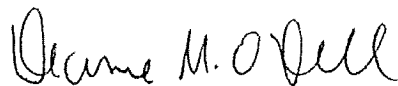
<sup>6</sup> See, e.g., Comments of CAUSE-PA at 5.

<sup>7</sup> 66 Pa.C.S. §§ 2802(13), 2803, 2804(2) and (6).

fully in RESA's comments, permitting PECO to offer a prepay product acts as a barrier for EGSs wishing to develop their own prepay options, reinforces the historical EDC-consumer monopoly relationship by creating the misimpression that only EDCs can offer prepay, and lead consumers to the mistaken belief that EDC-provided default service is superior.<sup>8</sup> All of these outcomes are inconsistent with the requirements of the Competition Act and support the rejection of PECO's petition.

For all these reasons as well as those set forth more fully in its initial comments, RESA recommends that the Commission reject PECO's Prepay Pilot Program and instead focus on making more impactful structural changes regarding the current billing structure that would open up a pathway for EGSs to offer their own prepay billing options (as they do in other jurisdictions).

Respectfully submitted,



---

Deanne O'Dell, Esquire  
(Pa. Attorney ID No. 81064)  
Eckert Seamans Cherin & Mellott, LLC  
213 Market Street, 8th Fl.  
Harrisburg, PA 17108-1248  
717 237 6000  
dodell@eckertseamans.com

Date: January 17, 2017

Counsel for the Retail Energy Supply Association

---

<sup>8</sup> See RESA Comments at 5-8.