

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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January 20, 2017

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

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

Dear Secretary Chiavetta:

Enclosed please find the Office of Consumer Advocate's Prehearing Memorandum in the
above-referenced proceeding.

Copies have been served per the attached Certificate of Service.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "H. Breitman".

Harrison W. Breitman
Assistant Consumer Advocate
PA Attorney I.D. 320580

Enclosure

cc: Honorable Angela T. Jones, ALJ
Certificate of Service

227938

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PECO Energy Company's Pilot 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	:	

PREHEARING MEMORANDUM
OF THE
OFFICE OF CONSUMER ADVOCATE

Pursuant to Section 333 of the Public Utility Code, 66 Pa. C.S. Section 333, and in response to the Prehearing Conference Order issued by Administrative Law Judge Angela T. Jones (ALJ Jones) in the above-captioned matter, the Office of Consumer Advocate (OCA) provides the following information:

I. INTRODUCTION

On October 26, 2016, PECO Energy Company (PECO or the Company) filed its Petitions with the Pennsylvania Public Utility Commission (Commission) containing a Pilot Plan designed to implement a prepaid meter pilot program utilizing PECO's advanced metering system. According to the Pilot Plan, PECO seeks the Commission's approval to permit 1,000 residential customers and applicants for service to voluntarily participate in a pilot program in which the customers/applicants prepay for electric service. *Plan* at ¶¶ 5, 6. PECO intends to use the pilot

program to, among other things, collect data on customer usage and payment patterns which may be used to develop a broad-scale advanced payments program. *Plan* at ¶ 5. PECO also seeks to obtain information on customer satisfaction with such a payment structure. PECO proposes to begin the prepaid meter pilot program in early 2018. *Plan* at ¶ 7. As part of its Pilot Plan, PECO is also seeking a waiver of a number of provisions contained in 52 Pa. Code § 56.17 which governs advance payments through the use of prepaid metering in certain circumstances. *Plan* at ¶¶ 31-35.

PECO requested that its Pilot Plan be evaluated and resolved on the basis of written comments and reply comments. *Plan* at ¶ 37. On November 12, 2016, a notice was published in the *Pennsylvania Bulletin* establishing that interested parties must file comments by December 15, 2016, and reply comments by January 16, 2017. 42 Pa.B. 7232. The OCA filed an Answer to PECO's Pilot Plan on November 15, 2016, which was submitted in accordance with the Commission's regulations requesting that this matter be sent to the Office of Administrative Law Judge for development of a full and complete record, including the presentation of expert witnesses. The OCA filed its Comments on December 15, 2016 in which it stated that PECO's Pilot Plan should not be approved. Since that time, this proceeding was sent to the Office of Administrative Law Judge and was further assigned to Administrative Law Judge Angela T. Jones (ALJ Jones). ALJ Jones issued a Prehearing Conference Order on December 21, 2016. Subsequently, the OCA filed Reply Comments on January 13, 2017 in accordance with the schedule published in the *Pennsylvania Bulletin*. Pursuant to the Prehearing Conference Order, a telephonic Prehearing Conference has been scheduled for January 23, 2017.

II. ISSUES AND SUB-ISSUES

Based upon a preliminary analysis of PECO's Petition, the OCA has identified a number of issues which it anticipates will be included in its investigation of the Petition. It is anticipated that other issues may arise and be pursued as this case proceeds.

The OCA will begin conducting discovery in this case as soon as possible. As the OCA receives the Company's Direct Testimony and responses to interrogatories, the OCA may be able to narrow the scope of additional information requests. Once the discovery process has been completed, the OCA will file direct testimony which will set forth the specific issues that the OCA will address in this proceeding. At that time, the OCA will also be able to make its specific recommendations.

The following list sets forth the issues that, at this time, the OCA anticipates it may raise:

A. Consistency with the Public Utility Code and the Public Interest

The Company's proposal raises significant legal and policy questions that must be addressed regarding the Pilot Plan. The OCA will investigate the following issues in this area:

- Whether the proposal is consistent with the Public Utility Code and is in the public interest;
- Whether it is permissible for PECO to operate the Pilot Plan under the Public Utility Code and to recover costs in the manner that PECO has proposed;
- Whether the Pilot Plan will provide a benefit to all consumers; and
- Whether PECO's proposal to reclassify termination as voluntary disconnection is consistent with the Public Utility Code.

B. Sufficient Detail For Consideration

The OCA will examine whether PECO's Pilot Plan is sufficiently detailed so that it is not devoid of critical details as to the protocols for the pilot, any details as to how PECO will protect consumers or public safety, or any details as to how PECO will provide protections to which customers are entitled under Chapter 14 of the Public Utility Code and Chapter 56 of the Commission's regulations.

C. Consumer Protections, Tracking, and Reporting Requirements

The OCA will investigate whether vital consumer protections are included in the plan to protect public health and safety, and to ensure that individuals do not go without essential utility services should the Pilot Plan go forward.

D. Cost Recovery

The OCA will investigate the proposed costs for the Pilot Plan in order to determine whether any costs incurred are properly recoverable in distribution base rates and whether rates will remain just and reasonable.

E. Operations

The OCA will examine a variety of specific operational details related to how the proposed Pilot Plan would operate.

III. WITNESSES

The OCA intends to present the direct, rebuttal, and surrebuttal testimony, as may be necessary, of the following witnesses in this proceeding. The witnesses will present testimony in written form and will also attach various exhibits, documents, and explanatory information which will assist in the presentation of the OCA's case. In order to expedite the resolution of this proceeding, the OCA requests that copies of all interrogatories, testimony, and answers to

interrogatories be sent directly to the expert witnesses, as well as mailing a copy to counsel for the OCA. The OCA's witnesses and their contact information is as follows:

John Howat
National Consumer Law Center
7 Winthrop Square, 4th Floor
Boston, MA 02110
Telephone: (617) 542-8010
E-mail: jhowat@nclc.org

Roger D. Colton
Fisher, Sheehan and Colton
34 Warwick Road
Belmont, MA 02478
Telephone: (617) 484-0597
Facsimile: (617) 484-0594
E-mail: roger@fsconline.com

The OCA specifically reserves the right to call additional witnesses, as necessary. As soon as the OCA has determined if an additional witness or witnesses will be necessary for any portion of its case, all parties of record will be notified.

IV. SERVICE ON THE OCA

The OCA will be represented in this proceeding by Assistant Consumer Advocates Lauren M. Burge and Harrison W. Breitman. Two copies of all documents should be served on the OCA as follows:

Lauren M. Burge
Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923
Telephone: (717) 783-5048
Fax: (717) 783-7152
E-mail: LBurge@paoca.org

V. DISCOVERY

The OCA expects that multiple rounds of discovery will be necessary in this proceeding. As discussed below, the OCA is working with the other parties to develop a litigation schedule. Because the time period for discovery and preparation of testimony is limited, the OCA submits that a shortened discovery response time may be necessary in this proceeding. If necessary, the OCA would request the following modifications:

- a. Answers to written interrogatories propounded in preparation of direct and rebuttal testimony shall be served in-hand within ten (10) calendar days of service. Discovery propounded after 12:00 noon on a Friday will be deemed served on the next business day for purposes of determining the due date of the responses.
- b. Objections to interrogatories shall be communicated orally within three (3) calendar days of service of the interrogatories; unresolved objections shall be served to the ALJ in writing within five (5) days of service of the interrogatories. Objections to interrogatories served on a Friday shall be communicated orally within four (4) calendar days, and unresolved objections shall be served to the ALJ in writing within six (6) days of service of the interrogatories.
- c. Motions to dismiss objections and/or direct the answering of interrogatories shall be filed within three (3) calendar days of service of the written objections.
- d. Answers to motions to dismiss objections and/or direct the answering of interrogatories shall be filed within three (3) calendar days of service of such motions.
- e. Responses to requests for document production, entry for inspection, or other purposes must be served in-hand within ten (10) calendar days.
- f. Requests for admissions will be deemed admitted unless answered within ten (10) calendar days or objected to within five (5) calendar days of service.

VI. PUBLIC INPUT HEARINGS

The OCA would support the scheduling of public input hearings if sufficient interest arises.

VII. PROPOSED SCHEDULE

The OCA is currently working with the other parties to develop a litigation schedule for this proceeding. At this time, the OCA proposes the schedule attached hereto as Appendix A.

VIII. SETTLEMENT

The OCA will participate in settlement discussions as appropriate.

Respectfully Submitted,



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Harrison W. Breitman
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Counsel for:
Tanya J. McCloskey
Acting Consumer Advocate

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January 20, 2017

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PROPOSED PROCEDURAL SCHEDULE
OF THE
OFFICE OF CONSUMER ADVOCATE

Prehearing Conference	January 23, 2017
Due Date for the filing of PECO's Direct Testimony	March 7, 2017
Due Date for the filing of Other Parties' Direct Testimony	May 16, 2017
Due Date for the filing of Rebuttal Testimony	June 27, 2017
Due Date for the filing of Surrebuttal Testimony	July 25, 2107
Evidentiary Hearings	August 23-24 or 29-30, 2017
Due Date for the filing of Main Briefs	September 22 or 29, 2017 (30 days after hearings)
Due Date for the filing of Reply Briefs	October 10 or 14, 2017 (approx. 15 days after M.B.)

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PECO ENERGY COMPANY'S :
PILOT 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 :

I hereby certify that I have this day served a true copy of the following document, the Office of Consumer Advocate's Prehearing Memorandum, 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 20th day of January 2017.

SERVICE BY E-MAIL & INTER-OFFICE MAIL

Gina Miller, Esquire
Bureau of Investigation & Enforcement
400 North Street
Harrisburg, PA 17120

SERVICE BY E-MAIL and FIRST CLASS MAIL

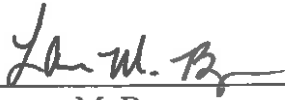
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Richard G. Webster
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2301 Market Street
P.O. Box 8699
Philadelphia, PA 19101-8699

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118 Locust Street
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Philadelphia, PA 19102



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