



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

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October 17, 2017

Secretary Rosemary Chiavetta
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

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 Bureau of Investigation and Enforcement's (I&E) **Main Brief** in the above-captioned proceeding.

Copies are being served on parties as identified in the attached certificate of service. If you have any questions, please contact me at (717) 787-8754.

Sincerely,

Gina L. Miller

Prosecutor

Bureau of Investigation and Enforcement
PA Attorney I.D. #313863

GLL/sea
Enclosure

cc: Certificate of Service
ALJ Angela T. Jones

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

**MAIN BRIEF
OF THE
BUREAU OF INVESTIGATION AND ENFORCEMENT**

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Dated: October 17, 2017

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I. INTRODUCTION

A. Procedural History

On October 26, 2016, PECO Energy Company (“PECO”) filed a Petition for Approval of an Advance Payments Program and a corresponding Petition for Temporary Waiver of Commission Regulations (collectively the “Petition”). The Petition, filed at Docket No. P-2016-2573023, serves as both PECO’s request to implement a two-year pilot program that will enable a select number of residential customers to pay for utility service in advance of usage (“Advance Payments Program”) and its request to waive certain impacted regulations (“waiver requests”).¹ According to PECO, the Advance Payments Program will use a “test and learn” approach to evaluate customer adoption, usage impacts, satisfaction, payment patterns, frequency and duration of disconnections, and the effect of marketing and education strategies for its customers.² In its Petition, PECO proposed a timeline for implementation of the Advance Payments Program³ culminating in customer enrollment in the Program between the fourth quarter of 2017 and the first quarter of 2018. PECO opined that its Petition should be evaluated and resolved through a process of written comments and reply comments.⁴

On October 28, 2016, the Commission issued a Secretarial Letter that acknowledged its receipt of PECO’s Petition and set due dates of December 15, 2016 and January 16, 2017 for Comments and Reply Comments, respectively. In accordance with

¹ 52 Pa. Code §52.17(3)(i); 52 Pa. Code §56.17(3)(iii)(B); 52 Pa. Code §56.53.

² PECO’s Petition, ¶5.

³ PECO’s Petition, ¶7.

⁴ PECO’s Petition, ¶37.

the terms of the Secretarial Letter, notice of PECO's Petition and the comment deadlines were published in the Pennsylvania Bulletin on November 12, 2016.⁵

On November 15, 2016, the Office of Consumer Advocate ("OCA") filed a Notice of Intervention and Answer to PECO's Petition. On the same date, Intervention Petitions and Answers to PECO's Petition were filed by both the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania ("CAUSE-PA") and the Tenant Union Representative Network ("TURN") and Alliance of Senior Citizens of Greater Philadelphia ("Action Alliance") (collectively "TURN et al."). In their Answers, OCA, CAUSE-PA, and TURN et al. each requested that PECO's Petition be referred to the Office of the Administrative Law Judge ("OALJ").

On December 15, 2016, along with the Bureau of Investigation and Enforcement ("I&E"), the following parties filed timely Comments in this proceeding: OCA, CAUSE-PA, TURN et al., PPL Electric Utilities Corporation, the Retail Energy Supply Association ("RESA"), NRG Energy, Inc. ("NRG"), Direct Energy, AARP Pennsylvania, the Aids Law Project of Pennsylvania, CADCOM, the Clean Air Council, the Natural Resources Defense Council, Earth Quaker Action Team, Neighborhood Energy Centers, Philadelphia Workers Benefit Council, and Duquesne Light Company.⁶ As part of their Comments, several commenters, including I&E, requested that PECO's Petition be referred to the OALJ for the scheduling of hearings to develop a full record regarding the Petition.

⁵ 46 Pa.B. 46.

⁶ I&E, PECO, OCA, CAUSE-PA, TURN et al, and NRG also filed Reply Comments.

After Comments were submitted, PECO's Petition was assigned to the OALJ for the development of an evidentiary record, culminating in an Initial Decision. The OALJ assigned the proceeding to Administrative Law Judge ("ALJ") Angela T. Jones and a Prehearing Conference was held on January 23, 2017. At the Prehearing Conference, a procedural schedule and the procedures applicable to this proceeding were set forth and subsequently memorialized in the Second Prehearing Order. After the Prehearing Conference, two public input hearings were held in Philadelphia on April 24, 2017, at 10 a.m. and 6:00 p.m., for purposes of taking public testimony regarding PECO's Advance Payments Program. Additionally, the parties engaged in the discovery process.⁷ In accordance with the procedural schedule outlined in Prehearing Order #4, the parties exchanged direct, rebuttal, surrebuttal, and rejoinder testimony. I&E introduced the following statements of testimony:

- I&E Statement No. 1, the Direct Testimony of Brenton Grab, and its corresponding exhibit, I&E Exhibit No. 1;
- I&E Statement No. 1-R, the Rebuttal Testimony of Brenton Grab; and
- I&E Statement No. 1-SR, the Surrebuttal Testimony of Brenton Grab

Although the parties could not reach a resolution of this matter, on August 25,

⁷ On May 4, 2017, continued delays in PECO's production of discovery responses compelled I&E to file an Expedited Motion to Extend the Litigation Schedule and to Request a Telephonic Discovery Status Conference. On May 9, 2017, ALJ Jones held a telephonic hearing to consider I&E's Motion. During the call, a resolution was reached that extended certain deadlines within the litigation schedule and that contemplated a revised discovery plan for PECO's counsel, as memorialized in Prehearing Order #4.

2017, the parties informed ALJ Jones that they had reached an agreement to waive cross-examination of all witnesses. On August 30, 2017, ALJ Jones presided over a telephonic evidentiary hearing. During the hearing, the parties moved for the admission of their evidence into the record. I&E entered the above-referenced testimony into the record.⁸ In accordance with the litigation schedule for this matter, and pursuant to the procedural schedule and the Pennsylvania Public Utility Code (“Code”),⁹ I&E submits this Main Brief.

B. Overview of PECO’s Advance Payment Program

In its Petition, PECO proposed to offer its Advance Payments Program on a pilot basis to 1,000 customer volunteers; however, it now appears to be seeking approval for a two-year pilot “of up to approximately 2,000 customers.”¹⁰ Volunteers will consist of existing residential customers and applicants (collectively, “participants”) whose household income is at or above 150% of the federal poverty level.¹¹ Under PECO’s proposal, program participation will be open to electric only or dual-service (electric and gas) customers, and it will also be open to both default service customers and to customers who participate in the retail shopping market.¹² Additionally, participation will be open to customers and applicants who either do not have a delinquency or have a delinquency that does not exceed \$1,500.¹³

⁸ Hearing Tr. at 193-194.

⁹ 52 Pa. Code. §§5.501- 5.502.

¹⁰ PECO’s Petition, ¶5; PECO St. No. 1, pp. 4, 23.

¹¹ PECO’s Petition, ¶1, ¶5, ¶16.

¹² PECO’s Petition, ¶6.

¹³ Id.

Participants of PECO's Advance Payments Program, will be required to deposit an initial payment of \$40 into their accounts in advance of receiving service, and thereafter, the participants must submit minimum payment of \$15.¹⁴ The account balance will be adjusted daily to account for credits loaded by the participant and the participants' actual daily usage of electric or electric and gas service. The balance will also be adjusted by PECO's monthly customer charge, which will be allocated on a daily basis.¹⁵ If a participant has a delinquent balance, 75% of their prepayments will be applied towards their future utility service, and 25% of it will be applied to their arrearage.¹⁶

As part of PECO's proposal, participants will be provided with an estimated days of usage figure that is based upon their prepayment balance and historical and projected usage.¹⁷ The participants will be able to access this information through a program website which will also track historical usage and payment data.¹⁸ PECO has retained an external vendor, PayGo, to develop the software module to calculate balances and to trigger customers notifications.¹⁹ To receive program notifications, and as a condition of the Advance Payments Program, participants will be required to provide an email address or a text-capable phone number to participate in the Advance Payments Plan.²⁰ Participants will receive notifications, either by email or by text message, at set times to provide their estimated days of usage remaining and the account balance. Notifications

¹⁴ PECO's Petition, Attachment 1, p. 2, Section 7.

¹⁵ PECO's Petition, Attachment 1, p. 2, Section 6.

¹⁶ Id. at Section 9.

¹⁷ Id. at Section 10.

¹⁸ Id. at Section 12.

¹⁹ I&E Exhibit No. 1, Sch. 3, p. 2.

²⁰ PECO's Petition, Attachment 1, p. 2, Section 11.

will be sent when the participant has five days, three days, and one day of remaining prepaid credit on their account. Participants may also choose to receive additional notifications.²¹ Additionally, participants will have access to a website and mobile application in which they can view their historic usage and payment data, account balance and estimated days of usage remaining.²²

In the event that participants fail to replenish their prepayment account, resulting in a zero balance, PECO will provide them with five days of emergency backup credits. Significantly, as a condition of the Advance Payments Program, participants must agree that if they exceed the five days of emergency backup credits, PECO may “disconnect” their service during its business hours.²³ PECO uses the term disconnection to describe the discontinuation of participants’ service resulting from their failure to replenish their prepayment accounts, and it indicates that it will treat that failure to operate as discontinuance as defined by the Commission’s regulations.²⁴ PECO’s Petition indicates that once a participant’s service has been discontinued, it will not be reconnected until the participant has paid for their five days of back-up credits and established an account balance of at least \$15.²⁵

²¹ Id.

²² Id. at Section 12.

²³ Id. at Sections 13-14.

²⁴ Id. at Section 14; 52 Pa. Code §56.72(1).

²⁵ Id.

C. The Role of the Bureau of Investigation & Enforcement

Act 129 of 2008,²⁶ authorized the Commission to establish bureaus, offices and positions to, *inter alia*, take appropriate enforcement actions that are necessary to ensure compliance with the Public Utility Code and Commission regulations and orders.²⁷ In accordance with Act 129, the Commission established I&E to serve as the prosecutory bureau for the purposes of representing the public interest in ratemaking and service matters, and enforcing compliance with the Public Utility Code.²⁸ The instant proceeding warrants I&E's participation because its outcome has ratemaking implications and because key components of the Public Utility Code and the Commission's regulations are at issue.

II. SUMMARY OF THE ARGUMENT

I&E recommends that the Commission deny PECO's Petition for several reasons. First, PECO's Advance Payments Program is too insufficiently developed to warrant approval at this time. During the litigation of this protracted proceeding, the terms of PECO's Advance Payments Program have continually evolved and now differ from what PECO originally proposed in its Petition. The result of this continued evolution is a lack of clarity regarding many facets of the Advance Payments Program, including the process for handling undeliverable notifications to participants, programming costs, the number of participants, restoration of service to certain customers during the winter months, and

²⁶ 66 Pa.C.S. § 308.2.

²⁷ 66 Pa.C.S. § 308.2(a)(11).

²⁸ 66 Pa.C.S. §§ 101 *et seq.*, and Commission regulations, 52 Pa. Code §§ 1.1 *et seq.* See *Implementation of Act 129 of 2008; Organization of Bureaus and Offices*, Docket No. M-2008-2071852 (Order entered August 11, 2011).

the goals of the program. Taking into account these inconsistencies, the terms of the Advance Payments Program are now undefined and it is unclear exactly what PECO is asking the Commission to approve. On this basis alone, I&E submits that PECO's Petition should be denied.

The inconsistencies of PECO's Advance Payments Program are amplified by the fact that PECO has failed to provide any disclosures or educational materials that customers would receive before volunteering to participate in the Advance Payments Program. The lack of these materials is fatal because of the unprecedented condition that participants must submit to in order to participate in the Advance Payments Program. Specifically, in order to participate, customers must agree that if their account balance drops to zero, and they completely use the five day emergency backup credit, PECO may disconnect their service.²⁹ Yet, despite this condition, which deprives customers of the litany of termination protections that exist under the Chapter 14 of the Code, PECO has failed to produce any consumer educational materials or disclosures that will be provided to participants as part of the record of this proceeding. I&E submits that PECO's Petition must be denied because, absent the parties' and the Commission's ability to review these materials to ensure that they will adequately inform participants, the public interest cannot be protected.

Additionally, the voluntary disconnection condition of the Advance Payments Program results in the program jeopardizing participants continued access to electric

²⁹ PECO's Petition, Appendix A, ¶14.

and/or gas service. Participants' access to utility service is jeopardized because under the Advance Payments Program, they will be required to waive key consumer and termination protections that exist under Chapter 14 of the Code. As I&E will explain, PECO's attempt to circumvent Chapter 14 is contrary to the legislative policy that underscores the important protections contained in that chapter. Additionally, the conditions of the Advance Payments Program are contrary to the legislature's determination that utility service is "essential to the health and well-being of residents, to public safety and to orderly economic development" and that all customers should be able to obtain service on reasonable terms and conditions.³⁰ I&E submits that participants access to utility service should not be jeopardized by the voluntary disconnection condition of the Advance Payments Program, and especially not when the evidence in this proceeding reveals that the majority of benefits that participants may receive through the programming is already available to them as PECO customers.

Finally, although I&E strongly opposes PECO's Advance Payments Program, if the Commission determines that PECO's Petition should be approved, it should impose certain conditions to protect both participants and the remainder of PECO's ratepayers. The Commission should mandate that PECO strike the requirement that participants must agree to voluntary disconnection of their service as a condition of participation. Instead of disconnecting service, if a participant in the Advance Payments Plan fails to replenish

³⁰ 66 Pa. C.S. § 2802(9); 66 Pa. C.S. § 1402.

their account balance within the five-day grace period, then PECO should automatically switch that participant back to the standard service.³¹

Next, new applicants should not be permitted to participate in the Advance Payments Program. Because of the lack of available historical usage information for applicants, there is no reliable yardstick to measure the true impact of the Advance Payments Program's upon applicants or upon the stated programming goals for applicants. Additionally, PECO must be required to provide quarterly program report to the Commission and to all parties to this proceeding. These reports are necessary to inform the Commission and parties of the true impact of PECO's unprecedented Advance Payments Program, which vastly deviates from the advance payments programming contemplated under Commission regulations. Furthermore, these reports will help the Commission and parties evaluate whether the Advance Payments Program should extend beyond the pilot phase. Finally, the Commission should make it explicitly clear that PECO is not granted preapproval to recover programming costs, as these costs remain undetermined and cannot yet be determined to be reasonable or prudent.

III. QUESTIONS INVOLVED

1. Is PECO's Advance Payments Program Too Insufficiently Developed to Warrant Approval?

Suggested Answer: Yes.

2. Would PECO's Advance Payments Program Unnecessarily Compromise Participants' Continued Access to Electric and/or Gas Service?

Suggested Answer: Yes.

³¹ I&E St. No. 1, p. 25.

3. If the Commission Approves PECO's Advance Payments Program, Should it Impose Certain Conditions to Protect Ratepayers?

Suggested Answer: Yes.

IV. LEGAL STANDARDS AND BURDEN OF PROOF

Pursuant to the Public Utility Code, the proponent of a rule or order bears the burden of proof.³² In this proceeding, PECO, as the proponent of the Advance Payments Plan, has the burden of proof to establish that it should be approved. In a case such as this one, pending before an administrative tribunal, Courts have held that a "litigant's burden of proof is satisfied by establishing a preponderance of evidence which is substantial and legally credible."³³ In order to meet its burden of proof, PECO must "present evidence more convincing, by even the smallest amount, than that presented by any opposing party."³⁴ In this case, PECO has failed to meet its burden of proving that its Advance Payments Program should be approved. Instead, I&E and other opposing parties have provided evidence that PECO's Advance Payments Program is insufficiently developed and that it will unnecessarily jeopardize ratepayers' continued access to utility service.

³² 66 Pa. C.S. § 332(a).

³³ *Samuel J. Lansberry, Inc. v. Pa. PUC*, 578 A.2d 600, 602 (Pa. Cmwlth. 1990).

³⁴ *Se-Ling Hosiery v. Margulies*, 70 A.2d 854 (Pa. 1950).

V. ARGUMENT

A. PECO's Advance Payment Program is Too Insufficiently Developed to Warrant Approval

1. The Continued Evolution of PECO's Advance Payment Program During the Course of this Proceeding Makes the Program Terms Uncertain

Since PECO filed its Petition on October 26, 2016, it has continually added or revised the terms of its as-filed Advance Payments program, and it is now unclear which terms govern critical components of PECO's proposal. In his direct testimony, I&E witness Brenton Grab identified the list of terms that PECO has altered or substituted during this course of this proceeding, as follows:

[t]hese include but are not limited to adding the undeliverable communications in PECO's response to Interrogatory CAUSE-PA-27, changing the programming cost figures during the Petition process, increasing the pilot participant limit from 1,000 to 2,000, changing the process for restoring service to certain customers, and changing the program goals.³⁵

Each of these changes will be discussed more comprehensively below. Importantly, when viewed in total, PECO's continued revisions to the Advance Payments Program terms make it clear that it was not fully developed when PECO filed the Petition and that the exact terms of what is now being offered remain unclear.³⁶

a. Undeliverable Notifications

First, when PECO initially filed its Petition, the electronic notification procedure regarding declining balances and proceeding disconnection did not account for reverting

³⁵ I&E St. No. 1-SR, pp. 31-32 (internal citations omitted).

³⁶ Id.

customers back to standard service if electronic communications were not received.³⁷

Therefore, PECO's Petition does not contemplate such action. However, during the discovery process, PECO indicated that if the electronic communications were not successful, it would revert the participant back to standard service in lieu of disconnection.³⁸ Although I&E submits that the latter course of action is much more appropriate, if PECO's Petition is approved, it is unclear which term will govern. Because the difference between these terms is the potential for service disconnection, I&E submits that there is no room for a lack of clarity here.

b. Programming Costs

Additionally, PECO's Petition not only failed to identify the cost of the Advance Payments Program, but it failed to even provide an estimate of those costs. In direct testimony, for the first time, PECO witness Scarpello estimated that the total costs for the Advance Payments Program, including vendor costs and internal personnel, would be less than \$500,000 for the two-year life of the program.³⁹ However, through the discovery process, PECO provided more detail about the costs, which reflected the fact that PECO's initial estimate was based on a mathematical error and that it also failed to include the \$250,000 cost of an evaluation vendor.⁴⁰ As a result, a more accurate range of estimated program costs is \$759,275 to \$809,275, or approximately \$400 per participant.⁴¹ I&E submits that while PECO failed to provide a good-faith estimate of the

³⁷ PECO's Petition, p. 5.

³⁸ I&E Exhibit No. 1, Schedule 9, p. 3.

³⁹ PECO St. No. 1, p. 23.

⁴⁰ I&E Exhibit No. 1, Schedules 6-8.

⁴¹ I&E St. No. 1, p. 14.

costs for the Advance Payments Program in its Petition, the information that was eventually revealed during this proceeding raises concerns about the true cost, which remains uncertain.

c. Number of Participants

Aside from the costs, the number of participants that PECO is seeking has changed substantially. Specifically, PECO's Petition indicated an intention to limit participation to only 1,000 volunteers,⁴² but it doubled the number of participants to 2,000 in its direct testimony.⁴³ According to PECO witness Scarpello, the reason for doubling the participant pool is that PECO "learned through discussions with potential vendors that program costs are the same for a 2,000-participant pilot as they would be for a 1,000 participant pilot."⁴⁴ I&E submits that Mr. Scarpello's statement highlights the fact that PECO filed its Petition before it develop even the basic terms of the Advance Payment Program. The size of the participant pool and associated vendor costs should have been researched and determined before the Petition was filed, and the fact that these essential terms were still developing during the course of this proceeding raises concerns about the integrity of the programming.

d. Restoration of Service to Certain Customers

Another disparity between PECO's Petition and written testimony that it offered later in this proceeding focuses on how customers with incomes below 250% of the federal poverty level will be treated during the winter. As I&E witness Brenton Grab

⁴² PECO's Petition, ¶5.

⁴³ PECO St. No. 1, p. 4.

⁴⁴ Id.

pointed out, the conditions of the Advance Payments Program outlined in PECO's Petition permit PECO to disconnect service customers with incomes at or below 250% of the federal poverty level⁴⁵ during the winter months even though termination procedures that are contained in the Code and within Commission Regulations would prohibit such loss of service.⁴⁶ Specifically, under the Code, absent authorization from the Commission, electric distribution utilities and natural gas distribution utilities, like PECO, shall not terminate service to customers with household incomes at or below 250% of the federal poverty level after November 30 and before April 1.⁴⁷ Additionally, Commission regulations memorialize an almost identical prohibition on winter service termination for those at or below 250% of the federal poverty level, but during the period of during the period of December 1 through March 31.⁴⁸

PECO appears to have attempted to address this issue after several witnesses in this case raised concerns about participants' access to the winter moratorium under the Advance Payments Program. In his rebuttal testimony, PECO witness Scarpello indicated as follows:

[i]f a customer receives those notices and realizes that they cannot make payments to keep their prepaid account active during the winter, then they have the option to call PECO and revert to standard service. If their income is below 250% of the federal poverty level, the reversion to standard service will include winter termination protections and they will not have their service terminated during the winter period. **In the unlikely event that the customer ignores all of the notices**

⁴⁵ I&E notes that customers with incomes below 150% of the federal poverty level are ineligible to participate in the Advance Payments Program. PECO's Petition, Attachment 1, p. 1, Section 3.

⁴⁶ I&E St. No. 1, pp. 10-11

⁴⁷ 66 Pa. C.S. § 1406(e) ("winter moratorium").

⁴⁸ 52 Pa. Code 56.100(b).

and their service is disconnected in the winter, the customer can still call PECO and revert to standard service. If they do so and their income is below 250% of the federal poverty level, their service will be restored immediately without payment of any kind.⁴⁹

Although Mr. Scarpello's claim that PECO will restore service to participants with income below 250% of the federal poverty level during the winter months is commendable, this claim is not memorialized in PECO's Petition. Accordingly, if the Commission approved PECO's Petition, there would be nothing requiring PECO to honor the process that Mr. Scarpello outlined. This lack of consistency only further complicates this proceeding and causes confusion about exactly which terms govern PECO's Advance Payment Program.

e. Goals of the Advance Payments Program

Finally, I&E notes that the goals of PECO's Advance Payments Program have changed during this case. At the outset, PECO's Petition identified the goals as follows:

[w]ithin this pilot program, the Company will employ a "test and learn" approach to assess customer adoption, usage impacts, satisfaction, payment patterns, as well as frequency and duration of disconnections and the effect of marketing and educational strategies for its customers. PECO expects that the lessons learned from the pilot will allow it to design a more successful program for broad-scale deployment throughout the Company's service territory.⁵⁰

Notably, from this description, PECO intended to gather the impact of the Advance Payments Program on customer disconnection and the impact of marketing

⁴⁹ PECO St. No. 1R, p. 11.
⁵⁰ PECO's Petition, ¶5.

strategies, which are ends that are much more favorable to PECO than to the participants. Additionally, this description makes it clear that the Advance Payments Pilot is a type of experiment for PECO.

Yet, in direct testimony, PECO identified the following three goals: (1) to determine whether there is a substantial portion of its customers who would prefer to utilize an advance payment mechanism and whether that mechanism will increase customer satisfaction; (2) whether customers can use advance payments to reduce or avoid delinquencies; and (3) whether the Advance Payments Program will assist customers in conserving energy.⁵¹ This list of goals focus on customer service, satisfaction, and energy conservation, which are much more customer friendly than the goals that PECO's Petition identified. This description suggests that the Advance Payments Pilot is an attempt to provide better service to PECO's customers.

Later, in yet another evolution of programming description that occurred during the discovery process, PECO indicated that "the overarching purpose of the pilot is determine whether the stated goals can be achieved through a prepaid meter program that replaces the termination procedure with a discontinuance procedure."⁵² This purpose for the Advance Payments Program focuses on the importance that PECO places upon implementing a program that does not afford participants their standard termination protections. Additionally, it adds further confusion and concern regarding the actual goals of PECO's Petition.

⁵¹ PECO St. No. 1, p. 4.

⁵² I&E Exhibit No. 1, Schedule 4, p. 1.

Finally, for the first time, in its rebuttal testimony, PECO suggests that reduction of uncollectibles is a goal of the Advance Payments Program.⁵³ Notably, the goal of preventing customers from becoming delinquent or helping them recover from delinquency appeared to have been changed to reducing PECO's uncollectibles.⁵⁴ Although I&E agrees that decreasing uncollectibles is a laudable goal, it is substantially different than the goals that PECO initially espoused earlier in this proceeding, making the actual goals of the Advance Payments Program less clear and measurable. I&E submits that the because of the continued changes in programming goals, there is no real certainty about what PECO truly hopes to accomplish with this unprecedented programming.

2. PECO's Fatal Failure to Develop Educational Materials for Participants Who Are Expected to Waive Termination Procedures

As I&E previously explained, PECO's Advance Payments Program is unprecedented in that in order to participate, customers must agree that if their account balance drops to zero, and they completely use the five day emergency backup credit, PECO may disconnect their service.⁵⁵ Yet, despite this condition, which deprives customers of the litany of protections that exist under the Chapter 14 of the Code, PECO has failed to produce any consumer educational materials or disclosures that will be provided to participants as part of the record of this proceeding. I&E submits that PECO's Petition must be denied because absent the parties' and the Commission's ability

⁵³ PECO St. No. 1, p. 6.

⁵⁴ PECO St. No. 1R, p. 2.

⁵⁵ PECO's Petition, Appendix A, ¶14.

to review these materials to ensure that they will adequately inform participants, the public interest cannot be protected.

At the outset of this case, PECO indicated only that it will provide “detailed information to all program applicants in a Welcome Packet.”⁵⁶ PECO made a general claim that the key elements of the Welcome Packet will include eligibility requirements, overview of the program, payment channel information, and frequently asked questions. Additionally, PECO indicated that it would provide materials to participants to “include information on the respective protections available in discontinuation vs. termination.”⁵⁷ However, PECO never provided a copy of the Welcome Packet or materials that explain the concepts of discontinuation and termination to participants as part of this proceeding. As a result, there are no materials or plan in place to educate potential participants.

Instead of developing materials or articulating a plan for educating potential participants, PECO asks the Commission to approve its Petition first.⁵⁸ According to PECO, after the Petition is approved, the Commission should allow consumer education materials to be influenced by arguments made in the evidentiary proceeding, the Commission Order, and resulting from stakeholder feedback.⁵⁹ PECO avers that this process is the typical approach used by the Commission,⁶⁰ but I&E fundamentally rejects this claim. As I&E witness Grab explained, PECO should have created the educational materials prior to filing the Petition because this is not a typical proceeding. Instead,

⁵⁶ PECO’s Petition, Appendix A, ¶15.

⁵⁷ PECO St. No. 2, p. 22.

⁵⁸ PECO St. No. 3R, p. 13.

⁵⁹ Id.

⁶⁰ Id.

“[t]his proceeding is the “poster child” for the need to educate customers, since customers would need to waive termination protections to participate in the Advance Payments Plan.”⁶¹ Mr. Grab correctly acknowledges that absent the verified receipt of comprehensive disclosures and educational materials about how the pilot will operate, it would be impossible to know if Advance Payments Program participants truly made an informed decision to waive termination protections. I&E avers that it would be irresponsible to require customers to give up their rights in order to participate without knowing if customers are being properly informed about the loss of their rights.

Ensuring that Advance Payments Program participants understand the conditions upon which they must agree is paramount to this proceeding. Throughout its case, PECO has made much of the fact that the Advance Payments Program participants will be volunteers, and that participation is not mandatory.⁶² To that end, PECO witness Scarpello opined that the numerous customer concerns implicated during the public input hearings in this matter resulted from those customers misunderstanding and incorrect view of the PECO proposal.⁶³ If true, Mr. Scarpello’s claim only serves to highlight the importance of educating customers about the terms of the Advance Payments Program, supporting the fact that a proposal of this nature and with these unprecedented terms must be accompanied by comprehensive and detailed disclosure and educational materials. Finally, PECO’s failure to provide disclosures and educational materials in conjunction with the Advance Payments Program ignores the Commission’s longstanding

⁶¹ I&E St. No. 1-SR, p. 18.

⁶² PECO’s Petition, ¶ 1; PECO St. No. 1R, pp. 23-24.

⁶³ PECO St. No. 1R, p. 24.

commitment to ensuring that customers are fully and properly educated about their utility options. Accordingly, PECO's Petition is too insufficiently developed to warrant approval.

B. PECO's Advance Payment Program Unnecessarily Compromises Participants' Continued Access to Electric and/or Gas Service

1. Pennsylvania Law's Requirement that Electric and Gas Utility Service Must Be Available on Reasonable Terms and Conditions is Jeopardized Under PECO's Proposal

Aside from the uncertainty of the terms of PECO's Advance Payments Program, and aside from it being insufficiently developed to warrant approval, I&E avers that its condition of voluntary discontinuance offends key components of Pennsylvania law. First, PECO's Advance Payments Program does not comport with the Electricity Generation Customer Choice and Competition Act ("Choice Act"). Aside from opening the retail electric market to competition, the Choice Act also addressed the importance of access to electric service and the need for customer protection in the competitive market. Specifically, the Choice Act concluded that electric service is "essential to the health and well-being of residents, to public safety and to orderly economic development" and that all customers should be able to obtain service on reasonable terms and conditions.⁶⁴ Although the Choice Act does not explicitly extend to natural gas service, the Code makes it clear that the General Assembly's intent is to ensure that public utility service, which includes natural gas service, remains available to all customers on reasonable terms and conditions.⁶⁵ I&E avers that PECO's Advance Payments Program operates in

⁶⁴ 66 Pa. C.S. § 2802(9).

⁶⁵ 66 Pa. C.S. § 1402.

a manner that deprives participants of the ability to receive service on reasonable terms and conditions.

Specifically, as OCA witness Howat aptly explained, as soon as participants are enrolled in PECO's pilot program, "they will in fact have reduced options for avoiding loss of service while being denied access to the basic consumer protections."⁶⁶ As Mr. Howat correctly identified, these lost protections include, but are not limited to, provisions of Chapter 14 of the Code. The Chapter 14 termination process provides more safeguards for customers to avoid service termination because it more actively engages the customer and targets the service residence. As explained below, the Chapter 14 termination process makes notification more personal and more effective than the passive notification process that PECO proposes under its Advance Payment Program.

Under Chapter 14, Prior to terminating service under subsection (a), a public utility: (i) Shall provide written notice of the termination to the customer at least ten days prior to the date of the proposed termination. The termination notice shall remain effective for 60 days. (ii) Shall attempt to contact the customer or occupant, either in person or by telephone, to provide notice of the proposed termination at least three days prior to the scheduled termination. Phone contact shall be deemed complete upon attempted calls on two separate days to the residence between the hours of 7 a.m. and 9 p.m. if the calls were made at various times each day. (iii) During the months of December through March, unless personal contact has been made with the customer or responsible adult by personally visiting the customer's residence, the public utility shall, within 48 hours of the scheduled date of termination, post a notice of the proposed termination at the service location. (iv) After complying with paragraphs (ii) and (iii), the public utility shall attempt to make personal contact with the customer or responsible adult at the time service is

⁶⁶ OCA St. No. 1, p. 26.

terminated. Termination of service shall not be delayed for failure to make personal contact.⁶⁷

As the above passage makes clear, termination provisions under the Code not only rely upon written notice, but require attempted telephone contact on two separate days. Additionally, for customers who are not protected by the winter moratorium of Chapter 14,⁶⁸ the Code provides other protections. By way of further explanation, if termination is to occur during the winter months, unless the utility has made personal contact with either the customer or a responsible adult at the service residence, written notice must be posted at the service location within 48 hours of termination. Thereafter, at the time that service is terminated, the utility is required to again attempt personal contact with the customer or responsible adult at the service residence. As illustrated, the Chapter 14 termination process more actively engages the customer and targets the service residence, making notification more personal and more effective than the passive notification process primarily via text message or email that PECO proposes under its Advance Payment Program.

The importance of the Chapter 14 termination process is underscored by the General Assembly's declaration of policy that precedes Chapter 14. Importantly, the legislature indicates that Chapter 14 was enacted to benefit the utility by offering it an opportunity to reduce its uncollectible accounts and to protect customers at the same time:

[t]hrough this chapter, the General Assembly seeks to provide public utilities with an equitable means to reduce their

⁶⁷ OCA St. No. 1, p. 28, referencing 66 Pa. C.S. § 1406(b)(1).
⁶⁸ 66 Pa. C.S. § 1406(e)(1).

uncollectible accounts by modifying the procedures for delinquent account collections and by increasing timely collections. At the same time, the General Assembly seeks to ensure that service remains available to all customers on reasonable terms and conditions.⁶⁹

Notably, the legislature's declaration of policy mirrors the Choice Act's mandate of ensuring that service remains available to all customers on reasonable terms and conditions.

I&E submits that the fact that the legislature's policy statement for Chapter 14 mirrors language in the Choice Act is not a coincidence. Instead, it is clear that like the Choice Act, Chapter 14 was enacted, at least in part, to protect customers from the unreasonable loss of utility service. I&E avers that the legislature did not intend for any utility company, including PECO, to circumvent Chapter 14 protections simply by relying upon the semantical differences between "disconnection" and "termination." Finally, PECO's attempt to circumvent Chapter 14 further is further compounded by the lack of any comprehensive disclosures and education materials for customers to review before they "volunteer" to participate in the Advance Payments Program. Together, these defects produce a result that not only compromises customers' access to utility service on reasonable terms and conditions, but that is also contrary to the public interest. Accordingly, PECO's Petition should be denied.

⁶⁹ 66 Pa. C.S. § 1402(3).

2. The Purported Benefits of the Advance Payments Program Are Already Available to PECO's Customers Without the Risk of Disconnection

The record in this proceeding makes it clear that the benefits that PECO's customers may hope to receive are already available to them without the need to participate in the Advance Payments Program. As I&E witness Grab explained, PECO customers already have access to tools that allow them to monitor their own accounts. Specifically, PECO customers have online access to a website called PECO's O-Power, which allows these customers to track their usage to within a day or so of real time.⁷⁰ With this existing access to usage information, PECO customers already have the ability to track and monitor their usage.⁷¹ Although PECO argues that the Advance Payments Program will provide participants with access to an additional webpage that will contain additional data, it also concedes that whether in or out of the Program, customers will be able to monitor their usage within a day or so of real time.⁷² Therefore, even if participants are afforded more data under the Advance Payments Program, they already have the ability to monitor their usage in a way that does not subject them to the conditions that PECO intends to impose under the Advance Payments program.

⁷⁰ I&E St. No. 1, p. 21; I&E Exhibit No. 1, Sch. 10.

⁷¹ Although RESA argues that customers looking up their information online and then making payments through their own bank account is not a practical or reasonable alternative to a prepayment program that offers daily notifications (RESA St. No. 1R, pp. 4-5), PECO's Petition does not contemplate the type of notification or programming that RESA appears to envision. Moreover, RESA's direct testimony indicates that RESA's purpose in this proceeding is to "explain[ing] RESA's perspective regarding the need for the Commission to defer to the competitive market to provide value-added programs and services and to explain the overall benefits to consumers of such programs if they are properly structured and implemented" (RESA St. No. 1, p. 2). I&E submits that this proceeding is not the appropriate forum to discuss whether prepayment programs are best handled in the competitive market; instead, the purpose of this proceeding is to evaluate PECO's Petition.

⁷² Id.

Furthermore, PECO already accepts advance payments in its regular course of business. Specifically, the record reveals that when customers overpay their bills, PECO simply credits these overpayments to those customers' accounts and then automatically applies these credits to future bills.⁷³ PECO indicates that customers who overpay are only issued a refund under two circumstances. First, PECO advises that customer overpayments are refunded if the overpayment is "large or remains on the account for a significant period of time."⁷⁴ However, PECO has not defined the parameters that it uses to trigger a refund under these circumstances. Additionally, PECO will issue refunds to customers who overpay and affirmatively request a refund.⁷⁵ Taking into account PECO's practices for handling overpayment, I&E submits that they do not appear to be significant barriers to customers who wish to prepay their accounts. However, outside of the Advance Payments program, PECO's customers will have more flexibility, because they can prepay their account when they want, but if their circumstances change or they no longer wish to prepay, they can simply stop doing so without the threat of disconnection looming.

Although PECO admits that through its current website and operations, some of the benefits of its Advance Payments Plan are already available through standard service,⁷⁶ it argues that the existence of one method of providing customer benefits should not operate to the exclusion of others. In general, I&E agrees with this statement;

⁷³ I&E St. No. 1, p. 22; I&E Exhibit No. 1, Sch. 13.

⁷⁴ I&E Exhibit No. 1, Sch. 13.

⁷⁵ Id.

⁷⁶ PECO Statement No. 1R, p. 20.

however, I&E does not agree that providing preexisting benefits to PECO's customers through another avenue, the Advance Payments Program, is in the public interest. I&E's disagreement on this basis does not result from a duplication of benefits through additional means. Instead, the terms of the Advance Payments Program jeopardize participants' continued access to utility service in a way that would not be possible absent enrollment. The fact that PECO customers already have access to most of the benefits offered under the Advance Payments Program only serves to illustrate the imprudence of imposing the voluntary disconnection condition upon participants. Accordingly, PECO's Petition should be denied.

C. If the Commission Approves PECO's Advance Payments Program, It Should Impose Certain Conditions to Protect Ratepayers

1. Participants Must Not be Required to Waive Termination Protections to Participate

If the Commission approves PECO's Advance Payments Program, I&E recommends that it strike the requirement that participants be required to agree to voluntary disconnection of their service as a condition of participation. Instead of disconnecting service, I&E recommends that if a participant in the Advance Payments Plan fails to replenish their account balance within the five-day grace period, then PECO should automatically switch that participant back to the standard service.⁷⁷ By adopting this recommendation, the Commission can preserve any benefits that participants may

⁷⁷ I&E St. No. 1, p. 25.

enjoy under PECO's Advance Payments Program without jeopardizing those participants' continued access to utility service.

In response to I&E's recommendation, PECO alleged that the disconnection provision is required under the Commission's regulations.⁷⁸ PECO also argued against I&E's recommendation by alleging that it is incorrectly based upon the assumption that the pilot provides substantially less disconnection protections than standard service.⁷⁹ Finally, PECO claims that absent the disconnection provision, PECO will lose the aspect of the program that makes it different and more appealing to its customer base in a way that the traditional approach does not.⁸⁰ I&E rejects each of these claims, as they are unsupported in the record.

First, PECO's claim that Commission regulations require that its Advance Payment Program include the voluntary disconnection provision is faulty because the regulations only apply to advance payments contemplated under 52 Pa. Code 56.17, *Advance payments*.⁸¹ The advance payments contemplated under the Commission's advance payments regulation substantially differ from the program that PECO now proposes. Although PECO's Petition invokes the advance payments regulation, which does require that a customer's failure to renew prepayment credits operate as a request for discontinuance, its own Advance Payments Program relies upon multiple waivers of the regulation's terms and results in a program that is not contemplated under the regulation.

⁷⁸ PECO St. No. 1R, p. 27.

⁷⁹ *Id.*

⁸⁰ *Id.*

⁸¹ "Advance payments regulation."

As an example, Section 56.17(3)(i) requires that an Advance payment plan be made available only to those customers who have a delinquency, but PECO is seeking a waiver of that requirement in order to extend the programming to applicants and to those without any delinquencies. Additionally, Section 56.17(3)(iii) states that, as a requirement to participate in the Plan, a customer must enter into a payment arrangement for their delinquency, but PECO asks for waiver of this requirement. Section 56.17(3)(iii)(B) requires that as a condition of enrollment, customers must agree to purchase prepayment credits to maintain service in the program until their delinquency is completely gone, but PECO is asking the Commission to waive this requirement, too.⁸²

When viewed together, the sum of PECO's waiver requests to implement its Advance Payment Program make the result completely outside of the character of the plan contemplated in the advance payments regulation. Taking this into account, it is completely disingenuous for PECO to now rely upon the advance payments regulation as the authority that requires its voluntary disconnection term. PECO appears to understand this, as it acknowledged that alongside its litany of other requested waivers, it could have sought a waiver of the disconnection requirement, but it did not "wish" to seek such a waiver.⁸³ Accordingly, it is PECO's preference and not the advance payments regulation that compels it to condition participation in its Advance Payments Program upon participants' consent to service disconnection if they do not make timely prepayments.

⁸² PECO's Petition, pp. 10-13.

⁸³ PECO St. 1-Rej, p. 5.

Additionally, PECO's argument that the pilot provides substantially more disconnection protections than standard service is based on a false comparison because the real issue here is that the pilot provides less termination protection than standard service. As explained above, PECO's reliance upon the disconnection provisions contained in the Commission's advance payment regulation is misplaced because the character of its Advance Payments Program is too far removed from the program contemplated in the advance payments regulation. To that end, I&E rejects PECO's claim that I&E witness Grab has ignored the difference between termination and discontinuance,⁸⁴ because that difference simply is not relevant here.

Although PECO does provide a comparison between the notification requirements imposed under traditional termination procedures and under its Advance Payments Program, the argument is not persuasive because of the differences in the types of notification. More specifically, while there is a greater quantity of notifications under the Advance Payments Program, the notifications are comprised of electronic communications. Under the Advance Payments Program, notification will occur as follows: PECO will send three electronic notices of declining prepaid credit balance at five, three, and one days' remaining of the balance and five electronic notices that the balance has reached \$0 (one each day for the next five days) before disconnecting the customer. All of these notices are electronic, either by text message or email, unless they are undeliverable, then PECO will call the participant. If the call does not result in

⁸⁴ PECO St. No. 1R, pp. 6-8.

contact, PECO will send the participant a letter. If the letter does not result in personal contact, then PECO now indicates that it will automatically revert the participant standard service.⁸⁵

Despite the quantity of notices that PECO alleges it will provide, as CAUSE-PA witness Miller points out, “reliance on messages being returned as undeliverable to trigger a potential automatic reversion to standard service is not enough to ensure that customers are protected.”⁸⁶ Mr. Miller stated that many individuals and households have only intermittent access email and text messaging, and that these customers could technically receive the notices but may not actually see them.⁸⁷ I&E witness Grab also explained that participants who elect to receive email notices and become payment troubled may also have trouble paying for internet service, producing a scenario where these customers have active email accounts but no internet service.⁸⁸ PECO has acknowledged this possible complication, but the only solution it offered was that customers in this position could call PECO and request to revert to standard service.⁸⁹ However, PECO has not ever explicitly indicated how participants would be informed of their obligation to call PECO and ask to revert to standard service.

⁸⁵ PECO Statement No. 1R, pp. 8-9. I&E notes that there is some contradiction in the record about whether participants will be reverted to standard service or disconnected if they failed to replenish their accounts but did not receive electronic notifications. PECO’s Petition does not provide for such reversion, but through the discovery process, PECO claimed the reversion would occur if communications were not received by the participant (I&E Exhibit No. 1, Schedule 9, p. 3).

⁸⁶ CAUSE-PA St. No. 1-SR, p. 5.

⁸⁷ Id.

⁸⁸ I&E St. No. 1-SR, p. 10; I&E St. No. 1, pp. 19-20.

⁸⁹ PECO St. No. 1R, pp. 19-20.

Conversely, and as explained more thoroughly above, the notice process outlined in Chapter 14 and in the Commission's regulations do not rely on electronic communication and include a more comprehensive notification process. As previously explained above, the Chapter 14 process more actively engages the customer and targets the service residence via a combination of written notice, phone contact, and attempt to speak in person, making notification more personal and more effective than the passive electronic notification process that PECO proposes under its Advance Payment Program.

Finally, I&E rejects PECO's claim that absent the voluntary disconnection provision, it will lose the aspect of the Advance Payments Program that makes it different and more appealing to its customer base. PECO offers no evidence to support the assertion. There is nothing in the record indicating that PECO's customers find an Advance Payments Program with the voluntary disconnection condition more attractive than the same program that does not impose this condition. I&E submits that it is more likely that, if properly educated about the voluntary disconnection condition, customers would prefer the latter. Accordingly, PECO's claim to the contrary should be rejected.

2. Applicants Should Not Be Permitted to Participate in PECO's Advance Payments Program

As I&E witness Brenton Grab explained, PECO should not include applicants as participants in the Advance Payments Program for several reasons. As Mr. Grab explained, PECO will not have any available historical usage data for applicants to sufficiently establish average usage and estimated days remaining. This lack of information would make management of the account balance significantly more

challenging for these customers.⁹⁰ Furthermore, one of PECO's stated programming goals, conservation of energy, could not be accurately evaluated for applicants because there would be no historic data available for comparison.⁹¹ Similarly, PECO's stated goals of preventing delinquencies/reducing uncollectibles and increasing customer satisfaction cannot be evaluated for applicants because there will be no applicant payment history or satisfaction level available for comparison. Quite simply, there is no yardstick available to measure the true impact of the Advance Payments Program's upon applicants or upon the stated programming goals for applicants.

PECO argues against Mr. Grab's recommendation to exclude applicants from the Advance Payments Program by claiming that there are no real issues associated with including applicants. According to PECO witness Scarpello, the absence of historical data for applicants would not impact PECO's calculation of their usage history. Instead, Mr. Scarpello claims that "very little usage history is necessary to provide the estimated days' service remaining-even a few weeks' trailing history is sufficient to estimate the number of days' service."⁹²

I&E fundamentally rejects the notion that PECO can meaningfully and reliably predict an applicants' usage history within a few weeks. As Mr. Grab pointed out, it is unreasonable to assume that a reasonable usage estimate could be based upon such short-term usage information. Such short-term information would not be representative of the applicants' usage of appliances and heating and cooling systems over the course of a

⁹⁰ I&E St. No. 1, pp. 25-26.

⁹¹ I&E St. No. 1-SR, p. 27.

⁹² PECO St. No. 1R, p. 28.

year.⁹³ Importantly, failure to accurately account for applicants' usage will dilute the accuracy of PECO's days of service calculation that participants must rely upon when making decisions about when to replenish their accounts. For these reasons, and in conjunction with the other concerns that I&E has identified above and which PECO has not addressed, PECO's Advance Payments Program should not be offered to applicants.

3. PECO Should be Required to Provide Quarterly Program Reports

If the Commission determines that PECO's Petition should be approved, I&E recommends that PECO be required to provide quarterly programming reports to the Commission and to all parties involved in this proceeding.⁹⁴ I&E's recommends that these quarterly reports include the following information for its Advance Payments Program:⁹⁵

- The number people enrolled;
- The average days of usage maintained on the accounts;
- The number of disconnections;
- The number of times that participants' account balances reached zero requiring usage of the grace period;
- A breakdown of administrative costs assessed during the reporting quarter;
- The number of participant complaints received;
- The number of inquiries that PECO received in the reporting quarter;
- The amount of time and corresponding costs related to handling participants' complaints, calls, emails, and letters;
- The amount of participants whose initial accounts balances were delinquent and are now no longer delinquent;
- The percentage of enrolled participants with a preexisting delinquency;
- The total of payments received in the reporting quarter;
- The total bills rendered for the reporting quarter; and,
- The amount of interest collected on the participants' payments during the reporting quarter.

⁹³ PECO St. No. 1SR, pp. 26-27.

⁹⁴ I&E St. No. 1, pp. 24-25.

⁹⁵ I&E St. No. 1, pp. 26-27.

I&E submits that the record in this case supports the need for these quarterly reporting requirements in three ways.

First, as I&E explained, if PECO's Petition is approved and it implements the Advance Payments Program, it will be the first time that programming of this type has ever been implemented by a jurisdictional Pennsylvania public utility.⁹⁶ With this in mind, tracking the information that I&E identified, like the number of participants, average days of usage, complaints, delinquency statuses, and negative account balances will serve two purposes. First, it will inform PECO, parties, and the Commission of the how the Advance Payments Program is impacting participants, the participants' level of satisfaction, and whether delinquency resolution is occurring. Additionally, by tracking this information, PECO will be better able to determine whether it should seek to extend the Advance Payments Program beyond the two-year pilot period. If PECO determines that it will seek an extension, the information contained in the recommended quarterly reports will be invaluable to parties and to the Commission as they evaluate any such request, because the reports will help quantify the participants' experience in the program over the term of the pilot.

Second, the quarterly reporting requirements regarding both tracking programming costs and the interest that PECO accrued under the payment scheme will enable PECO, parties, and the Commission to determine whether the Advance Payments Program is cost-effective and operated in a manner that is prudent and reasonable. As an

⁹⁶ I&E St. No. 1-SR, p. 30.

example, requiring PECO to provide a breakdown of administrative costs that it incurs to operate the program is important because PECO has indicated that pilot costs are only estimated, and that the programming is still being designed.⁹⁷ PECO's acknowledgment that the costs have not been fully determined is supported by the record in this matter which reveals that the cost estimates have continually changed throughout the life of this case. At the outset, PECO claimed that the costs for the two-year life of the pilot program would be less than \$500,000,⁹⁸ but I&E's review of discovery responses from PECO provided information that revealed several errors that were contained in PECO's initial estimate, moving the actual cost range to \$759,275 - \$809,275.⁹⁹ Because estimating programming costs appear to have escalated over the course of this case, but still remain uncertain, it is imperative that the Commission be able to identify these actual costs to determine their prudence, and the quarterly reports will facilitate that review.

Finally, although I&E strongly opposes PECO's Advance Payments Program, if the Commission determines that it should be approved, I&E strongly urges the Commission to adopt the condition that participants not be required to consent to voluntary disconnection of service under any circumstances. However, if the Commission approves PECO's Petition as filed, it is imperative that PECO track and report the number of times that participants' service is disconnected during two-year pilot term. Without this information, parties and the Commission will not know the true impact of the voluntary disconnection term upon the participants. As I&E has already

⁹⁷ PECO St. No. 1R, p. 25.

⁹⁸ PECO St. No. 1, p. 23.

⁹⁹ I&E St. No. 1, p. 14.

explained, Pennsylvania law requires that jurisdictional customers have access to utility service on reasonable terms. To that end, PECO, parties, and the Commission have a duty to fully understand the true impact of the voluntary disconnection requirement and to use that information to assess whether participants' access to utility service is being jeopardized under PECO's Advance Payment Program. Accordingly, in the event that the Commission permits PECO to require that participants consent to voluntary disconnection condition of as a condition of participation in the Advance Payments Program, then it must also require PECO to submit quarterly reports that identify number of resulting disconnections during the pilot term.

Although PECO has opposed I&E recommendation for quarterly reporting, its arguments have no merit and they are not supported by the record. First, PECO claims that I&E's recommendation ignores that 52 Pa. Code Section 56.17(v) evaluation criteria is met through the evaluation and reporting plan outlined in PECO's Petition.¹⁰⁰ The fatal flaw in PECO's argument is that the evaluation criteria that PECO references pertains to advance payments within the referenced regulation's meaning, not within the meaning of its own Advance Payments Program, which is vastly different. More specifically, PECO proposes to offer its Advance Payments Program to customers who either have no delinquencies or those whose delinquencies do not exceed \$1,500. Conversely, under the advance payments regulation, a customer participant **must** have a delinquency for which he or she is **requesting a payment agreement** but offering terms

¹⁰⁰ PECO St. No. 1R, p. 30.

that the public utility finds unacceptable.¹⁰¹ Additionally, PECO proposes to allow applicants to participate in the Advance Payments Program, but the advance payments regulation makes it clear that the participant must already be a customer of the utility.¹⁰² The disparities between PECO's proposal, which is open to new customers and which does not exist solely to resolve problematic delinquencies, and the advance payments contemplated in the Commission's regulations, make it clear that the same evaluation criteria should not apply to both prepayment schemes. It is axiomatic that PECO should not be permitted to request waivers of the Commission's advance payments regulations and thereafter argue that its own resulting and distinguishable Advance Payments Program should be evaluated by the same criteria that exists under the regulatory scheme.

Additionally, PECO's claim that I&E's recommended reporting requirement would significantly increase the cost of evaluation and reporting efforts¹⁰³ has no support in the record. While PECO is in the best position to indicate how I&E's recommendation would escalate its cost, it has not provided any quantified estimates of the impact and instead it relies solely upon unsupported assertions. Additionally, PECO's unprecedented proposal in this matter requires that stakeholders and the Commission be fully informed of the pilot's impact. Despite this, PECO has offered no evidence in this case to prove that stakeholders should be deprived of this information on this basis of costs. Accordingly, PECO's argument on this basis has no merit and it should be rejected.

¹⁰¹ 52 Pa.Code § 56.17(3)(i) (emphasis added).

¹⁰² PECO's Petition, p. 2; 52 Pa. Code § 56.17(3)(i).

¹⁰³ PECO St. No. 1R, p. 30.

4. It Must be Clear that PECO is not Granted Preapproval to Recovery Programming Costs

In its Petition, PECO acknowledged that it was not seeking any cost recovery at this time, but that it intended to seek recovery of the costs in a future base rate case.¹⁰⁴ Additionally, PECO indicated that it is not requesting any determination at this time as to the reasonableness or prudence of Advance Payments Program expenditures.¹⁰⁵ While I&E agrees with PECO that it is not requesting any determination at this time, I&E's concerns regarding the costs centered on the fact that PECO's estimated costs increased during the course of this proceeding. Specifically, PECO's estimated costs increased after its Petition was filed to account for the inclusion of vendor costs that should have been identified at the outset of this proceeding.¹⁰⁶ In any case, I&E recommends that the Commission's Final Order in this proceeding memorialize the fact that no costs associated with PECO's Advance Payment Program are being approved as part of this proceeding. Additionally, I&E requests that Commission indicate that such costs will be evaluated for reasonableness and prudence in the PECO base rate case in which they are being claimed.

¹⁰⁴ PECO's Petition, ¶9.

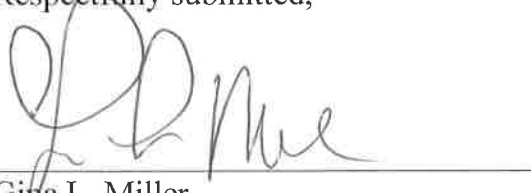
¹⁰⁵ Id.

¹⁰⁶ I&E St. No. 1-SR, pp. 20-21.

VI. CONCLUSION

For the reasons outlined in this Main Brief, I&E respectfully requests that Administrative Law Judge Angela T. Jones recommend, and the Commission subsequently uphold, the denial of PECO's Petition. In the alternative, if the Commission approves PECO's Petition, then I&E recommends that it condition such approval upon the following terms: (1) participants will not be required to agree to voluntary disconnection of their service as a condition of participation in PECO's Advance Payments Program; (2) Applicants are not eligible to participate in PECO's Advance Payments Program; (3) PECO is required to provide quarterly programming reports with the information specified in I&E's testimony to the Commission and to all parties involved in this proceeding; and (4) any approval of PECO's Petition must not be construed to operate as preapproval for recovery of programming costs.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Gina L. Miller", is written over a horizontal line.

Gina L. Miller
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Dated: October 17, 2017

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

CERTIFICATE OF SERVICE

I hereby certify that I am serving the foregoing **Main Brief** dated October 17, 2017, in the manner and upon the persons listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party):

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