

**PENNSYLVANIA PUBLIC UTILITY COMMISSION
HARRISBURG PENNSYLVANIA 17120**

PECO Energy Company Pilot Plan for an Advance Payments Program and Petition for Temporary Waiver of Portions of the Commission's Regulations with respect to the Plan

**Public meeting held April 25, 2019
2573023-OSA
Docket No. P-2016-2573023**

**JOINT MOTION OF CHAIRMAN GLADYS BROWN DUTRIEUILLE AND
VICE CHAIRMAN DAVID W. SWEET**

Before the Commission is the Recommended Decision (RD) of Administrative Law Judge Angela T. Jones (ALJ) denying a proposal for a pilot program filed by PECO Energy Company (PECO) for an advance payment program, and the waivers of the Commission's regulations necessary to implement the Plan, and the Exceptions and Reply Exceptions filed by PECO, the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA), Tenant Union Representative Network (TURN), the Office of Consumer Advocate (OCA), the Commission's Bureau of Investigation & Enforcement (I&E), and Retail Energy Supply Association (RESA).

The program is proposed as a two-year pilot limited to 2,000 customers with smart meters and a household gross income above 150% of the Federal Poverty Income Guidelines, existing customers or new applicants, and all participation is strictly voluntary. Participants must have access to the internet or a text-capable cell phone. The Plan would be available to both default and shopping customers, and to electric-only or dual-service customers. Participation is limited to those without a delinquency and to those who carry a maximum delinquency of \$1,500, and 25% of the funded amount will reduce delinquency while 75% will be applied to future service. PECO will permit participants to use any existing payment channel to pay or "load" funds into their account prior to usage of service, and the beginning amount to be prepaid must be at least \$40. Each day, the account balance will be reduced to reflect the charges for the prior day's usage. For existing customers, any credit deposit will be used to fund initial participation in the program, and no additional credit deposit will be required.

Participants will receive electronic notices when the account balance is sufficient to cover an estimated five, three, and one days' worth of usage, with additional notices available upon customer request. If the account balance reaches zero or a negative balance, the customer will be given a five-day grace period to load funds to the account, and daily notices will be given during the grace period. If no additional funds are loaded during the grace period, service will be remotely disconnected. For dual service customers, only electric service will be disconnected. Restoration of service will require payment for usage during the grace period as well as an additional payment toward future service.

During the pilot, the customer may choose at any time to return to standard payment terms and conditions. If this option is taken, the customer may not return to the pilot. PECO will collect data and report to the Commission consistent with the outlined timeline that will require updating if the plan is approved. Implementation will require about a year, then "impact evaluation" will be completed no later than two years after customer enrollment is complete. At that time, PECO proposes to make a filing that will recommend elimination, extension, expansion, or revision of the pilot.

The RD found that there were specific areas where the Plan was insufficient, including the procedures for electronic notification and for handling medical certifications, for protection against termination of service during the winter months, a likely increase in disconnection rates, and the omission of payment arrangement options. The RD identified a failure to protect tenants dwelling with landlords, treatment of participants who may have protection from abuse orders, and the possible inhibition of the competitive market.

The ALJ did identify a number of factors as favorable, particularly, inclusion of applicants as eligible to participate, inclusion of participants who do not have delinquencies, that the duration of enrollment is not contingent on extinguishing delinquencies, that discontinuance was in compliance with regulations, that there should be a stakeholder collaborative platform for development of materials and a plan for education, instruction, and information for participants. Ultimately, she determined that PECO did not prove that the Plan was in the public interest and recommended against it.

EXCEPTIONS

In Exceptions, RESA argues that this type of program gives an advantage to the incumbent, and by allowing PECO to offer this program, competition will be stymied. We disagree that the program will inhibit competition. The Competition Act¹ does not bar an electric distribution company (EDC) from offering a service if the market cannot. Additionally, we reiterate that this is a pilot, which will allow the Commission to analyze the impacts of a utility-offered pre-pay program on, among other things, the competitive market. As such, RESA's Exceptions are denied.

I&E, OCA, and CAUSE-PA/TURN are troubled by the provision in the Plan which designates the act of termination of service, while enrolled in the pilot, to be a "voluntary discontinuance of service," even though it does not occur until at least eight electronic warnings and a five-day grace period in which to make a deposit on a participant's account have been issued. A "discontinuance of service" does not trigger the Commission's consumer protections in Chapter 14 of the Public Utility Code² or Chapter 56 of the Commission's regulations regarding termination, medical certifications, and winter moratorium terminations.³ These parties do not see this as "voluntary" and argue that the termination of service poses a heightened risk to health and safety.

PECO argues that the Plan includes adequate protections for customers, including that all participation is voluntary, any participant may exit the program with a phone call at any time, participants have the same rights to medical certification as other customers, and those customers in need of protection during the winter moratorium can exit the program at any time. PECO cites to evidence that similar programs exist in other jurisdictions with a higher satisfaction rate than normal utility service billing and are accompanied by a decrease in delinquencies and increased conservation.

The parties recognize that there was much discussion regarding the Commission's existing regulations regarding prepaid metering.⁴ OCA claims that the RD relies upon those regulations too heavily, as they were adopted in 1978 and have never been used. The regulations have little to do with the Plan presented in this Petition, as the technology of the time did not

¹ 66 Pa. C.S. § 2801, et seq.

² 66 Pa. C.S. Chapter 14.

³ 52 Pa. Code Chapter 56.

⁴ 52 Pa. Code § 56.17.

anticipate the electronic exchange of information and currency that is now available with smart meters, cell phones, and internet.

DISPOSITION

The concern shown by OCA, I&E, and CAUSE-PA/TURN is well received. The Commission does not want to take any action which will result in increased risk to PECO's most vulnerable customers, and accordingly, we appreciate the issues raised by these parties. We agree that there must be additional protections in place before PECO can implement its proposed Plan.

At the same time, it is clear that the placement of advanced "smart" meters has opened a door to new possibilities that were not available under the prior metering systems. The traditional billing cycle where the meter is read monthly is no longer the only way to approach billing, as the smart meters can transmit daily usage. Customers using the prepaid program can add funds to their accounts in a manner that suits their needs, perhaps adding funds every two weeks to coincide with their paychecks, instead of making a large payment monthly. This would more accurately reflect the way that money flows into their households. It would be unfortunate to miss an opportunity to see how this type of program can be used by customers who wish to use it. We are mindful that this is a pilot program, and that participation is strictly voluntary.

We believe that this proposed pilot program should be given an opportunity to proceed in order to gather data to aid in the determination of its viability in terms of convenience to customers, cost effectiveness, reduction in terminations, and increase in reconnections, particularly just before the winter moratorium takes effect, and other benefits.

To address those shortcomings raised by the parties while giving PECO an opportunity to implement the Plan, we are permitting PECO to file a compliance filing which must incorporate the following modifications in order to receive approval:

- Provide that a customer who has not paid during the five-day grace period is automatically removed from the program and returned to standard payment terms and conditions, including, but not limited to, the traditional termination procedures. This removes the practice of "voluntary discontinuances of service" and restores the full consumer protections in Chapter 14 of the Code and Chapter 56 of the Commission's regulations to the participants. It also protects the non-ratepayer occupants of a dwelling from experiencing a shut-off for which they had no warning. We note that, if a written notice⁵ the five-day grace period under the program may be the first five days in the traditional 10-day termination process.
- Provide that a participant who informs PECO that a medical certification will be provided is automatically removed from this program and returned to standard payment terms and conditions in order to provide full consumer protections to those in need of them.
- Provide that existing deposits may be eligible for application to the program but may be returned to the customer at the customer's election.
- Provide that customers holding an active protection from abuse order are eligible for this Plan but must be informed of their other payment plan options in order to determine which may be the best choice for them.
- Ensure that there is no PECO-initiated fee for payments made on the website or customer portal.

⁵ The written notice must comply with 66 Pa. C.S. § 406 and 52 Pa. Code §§ 56.91, 56.331.

In addition, PECO must commit to keeping meticulous records to determine the number of participants who are removed from the program, the reason for removal, at what stage removal occurred, whether the addition of the traditional termination notices resulted in the customers' payment to prevent disconnection versus those for whom the electronic notifications were sufficient, as well as the reporting proposed.

We are keenly aware of the OCA's warning that prepaid programs tend to become concentrated among low to moderate income customers, and we want to be clear that this approval is meant to permit an innovative *pilot* program consistent with available technologies to allow customers and applicants more convenience and flexibility. While we are hopeful that there will be benefits to this pilot, we cannot evaluate its success until we have gathered data to support or to weigh against its continuation. It is even possible that this prepaid service will provide a means of obtaining or continuing service to payment-troubled customers who may be barred from Commission assistance by the provisions of Chapter 14.

We remind PECO that this program is not to be used as a substitute for the company-issued payment arrangements that it offers to payment troubled customers now. PECO is expected to continue to negotiate payment arrangements with payment-troubled customers in good faith.⁶ We assure all stakeholders that this approval is not intended to circumvent or reduce the consumer protections to which customers are now entitled. If at any time during the pilot, those protections are imperiled, PECO must suspend the program and may do so with a letter to the Commission at this docket.

We expect PECO to take sufficient time to collaborate with the public and low-income advocates in the development and preparation of educational materials and scripts that will be used when the program is ready for implementation. Specifically, ensure that customers understand they may be required to restore a full security deposit if they choose to revert to standard service.

We also recognize that we have made significant modifications to the proposed program, but that those modifications were discussed and are supported in the underlying record. If these modifications are not acceptable to PECO, then PECO will simply not file its compliance filing, and the program will not be developed. However, a compliance filing that does not include these modifications will be rejected.

THEREFORE,

WE MOVE:

1. That the Exceptions of PECO Energy Company are granted in part and denied in part, consistent with this Motion.
2. That the Exceptions of the Office of Consumer Advocate, the Commission's Bureau of Investigation and Enforcement, and CAUSE-PA/TURN are granted in part and denied in part, consistent with this Motion.
3. That the Exceptions of the Retail Energy Supply Association are denied.
4. That PECO Energy Company may file a compliance plan within 60 days of the date of the Commission's final order which creates a prepaid metering pilot program with terms as proposed unless modified as follows:

⁶ Section 56.97(b) of the Commission's Regulations requires the utility to "exercise good faith and fair judgment in attempting to enter a reasonable payment arrangement or otherwise equitably resolve the matter." 52 Pa. Code § 56.37(b).

- a) A customer who has not paid during the five-day grace period is automatically removed from the program and returned to standard payment terms and conditions, including, but not limited to, the traditional termination procedures.
 - b) A participant who informs PECO that a medical certification will be provided is automatically removed from this program and returned to standard payment terms and conditions in order to provide full consumer protections to those in need of them.
 - c) Existing deposits may be eligible for application to the program but may be returned to the customer at the customer's election.
 - d) Customers holding an active protection from abuse order are eligible for this Plan but must be informed of their other payment plan options in order to determine which may be the best choice for them.
 - e) PECO may not initiate a fee for payments made on the website or customer portal.
- 5. That the waivers to 52 Pa. Code §§ 56.17(3), 56.17(3)(i), 56.17(iii)(B), 56.53, and 56.17(3)(ii)(D), are granted for purposes of allowing the pilot program only, and the waivers will expire at the end of the pilot program.
 - 6. That if PECO chooses to not file a compliance plan within sixty (60) days of the final Commission order, this docket may be closed by Secretarial Letter.
 - 7. That PECO shall serve a true and correct copy of its compliance plan, if any, upon the parties to this docket.
 - 8. That the Office of Special Assistants prepare an appropriate Opinion and Order consistent with this Motion.

April 25, 2019
DATE


GLADYS BROWN DUTRIEUILLE
CHAIRMAN


DAVID W. SWEET
VICE CHAIRMAN