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September 16, 2024

**VIA eFILING**

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2nd Floor  
Harrisburg, PA 17120

**Re: Petition of PECO Energy Company for Approval of Its Default Service Program for the Period from June 1, 2025 through May 31, 2029 Docket No. P-2024-3046008**

Dear Secretary Chiavetta:

Please find enclosed the Joint Reply Exceptions of TURN and CAUSE-PA. If you have any questions, please do not hesitate to contact me.

Sincerely,

/s/ Robert W. Ballenger

Robert W. Ballenger

*Counsel for TURN and CAUSE-PA*

Enc.

Cc: Service list  
ALJ Vero  
ALJ Ashton  
Office of Special Assistants

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**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of PECO Energy Company for :  
Approval of Its Default Service Program for : P-2024-3046008  
the Period From June 1, 2025 Through :  
May 31, 2029 :

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the Joint Reply Exceptions of TURN and CAUSE-PA upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code §1.54.

VIA EMAIL

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September 16, 2024

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BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PETITION OF PECO ENERGY COMPANY FOR :  
APPROVAL OF ITS DEFAULT SERVICE : DOCKET NO. P-2024-3046008  
PROGRAM FOR THE PERIOD FROM JUNE 1, :  
2025 THROUGH MAY 31, 2029 :

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JOINT REPLY EXCEPTIONS OF TENANT UNION  
REPRESENTATIVE NETWORK (TURN) AND  
COALITION FOR AFFORDABLE UTILITY SERVICES  
AND ENERGY EFFICIENCY IN PENNSYLVANIA  
(CAUSE-PA)

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September 16, 2024

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## I. INTRODUCTION

On September 3, 2024, Administrative Law Judges (ALJs) Eranda Vero and Arlene Ashton issued their Recommended Decision (RD) approving a Joint Petition for Non-Unanimous Settlement filed on July 10, 2024 (Joint Petition) without modification.<sup>1</sup> Tenant Union Representative Network (TURN) and Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA) supported the Joint Petition and opposed positions advanced and/or supported by the Retail Energy Supply Association (RESA) and NRG Energy, Inc. (NRG).<sup>2</sup> TURN and CAUSE-PA are collectively referred to herein as “TURN/CAUSE-PA.” As applicable to these Reply Exceptions, RESA and NRG advanced three proposals, all of which were rejected by the ALJs.

First, RESA and NRG opposed the Joint Petition’s proposed modification to PECO’s Standard Offer Program (SOP) that would return customers to default service at the end of the SOP’s 12-month term unless the customers affirmatively elected to remain with their current Electric Generation Supplier (EGS) or enrolled with another EGS. Second, RESA and NRG opposed the Joint Petition’s proposed modification to PECO’s bill format that would add a table displaying EGS pricing in one column alongside PECO’s PTC in a second column. Third, RESA and NRG supported a proposal for the PUC to commence a statewide investigation regarding default service messaging. RESA and NRG take exception to the ALJs recommendation to approve the Joint Petition’s modifications to the SOP<sup>3</sup> and PECO’s bill

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<sup>1</sup> RD Ordering ¶1.

<sup>2</sup> American Power & Gas was not a party to this proceeding, but submitted its opposition to the proposed modifications to PECO’s Standard Offer Program via an *amicus curiae* brief on July 17, 2024.

<sup>3</sup> RESA Exception No. 4; NRG Exception No. 2. See RD at 87-89.

format changes.<sup>4</sup> RESA and NRG likewise take exception to the ALJs' recommendation that the commission deny the requested statewide investigation.<sup>5</sup>

Through these Reply Exceptions, TURN and CAUSE-PA assert that the Commission should deny RESA and NRG's Exceptions and adopt the well-reasoned recommendations of the ALJs, which are supported by substantial evidence and consistent with the legislative purposes of the Electricity Generation Customer Choice and Competition Act (Choice Act). To facilitate review, TURN/CAUSE-PA have ordered their Reply Exceptions in a manner that is consistent with the parties' briefs.

## **II. RESA EXCEPTION NO. 4, NRG EXCEPTION NO. 2 (STANDARD OFFER PROGRAM)**

As set forth in the Joint Petition, starting with SOP contracts executed after June 1, 2025, PECO's SOP would return customers to default service at the end of the 12-month period unless the customer affirmatively elects to stay with the SOP supplier.<sup>6</sup> RESA and NRG advance several arguments against the ALJs recommendation. First, they contend that there is insufficient evidence to support the modification to the SOP, asserting instead that PECO survey data weighs in favor of maintaining the status quo.<sup>7</sup> Second, they argue that the change will result in more customers returning to default service and less customers choosing EGS supply, thereby adversely affecting the market for EGS supply.<sup>8</sup> RESA asserts, without any support, that the core objective of the SOP modification is to attempt to influence EGS pricing decisions.<sup>9</sup>

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<sup>4</sup> RESA Exception No. 3; NRG Exception No. 1. See RD at 106.

<sup>5</sup> RESA Exception No. 1; NRG Exception No. 3. See RD at 98, Ordering ¶7.

<sup>6</sup> Joint Petition ¶64.

<sup>7</sup> RESA Exceptions at 15-17; NRG Exceptions at 5, 8.

<sup>8</sup> RESA Exceptions at 18-20; NRG Exceptions at 6.

<sup>9</sup> RESA Exceptions at 18.

Meanwhile, NRG contends that the SOP modification eliminates customers' ability to select an EGS other than the one enrolled in through the SOP.<sup>10</sup>

Regarding evidentiary support for the modification to the SOP, the RD summarizes the exhaustive testimony and evidence submitted by the Office of Consumer Advocate (OCA) and TURN/CAUSE-PA regarding the harms of shopping experienced by PECO residential customers as demonstrated by PECO billing data.<sup>11</sup> That evidence showed that suppliers charged in excess of \$800 million more to residential shopping customers than they would have experienced under default service and that confirmed low income (CLI) customers experienced the highest EGS charges.<sup>12</sup> RESA and NRG assert that this evidence is not limited to SOP participants and so is not adequate to support the modification.<sup>13</sup> They contend that PECO survey data supports maintaining the status quo, despite the fact that the survey "represents only 447 responses out of a total pool of 7,454 customers who were enrolled" through the SOP and so is of questionable value.<sup>14</sup>

RESA and NRG completely disregard significant record evidence that supports the SOP modifications. OCA and TURN/CAUSE-PA's witnesses testified at length regarding their concerns with the SOP. OCA's witness, Ms. Alexander, testified against the SOP's negative option renewal practice,<sup>15</sup> stating that "it is entirely appropriate to urge the Commission to review and reform its approach to the implementation of the SOP."<sup>16</sup> Ms. Alexander explained

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<sup>10</sup> NRG Exceptions at 6.

<sup>11</sup> RD at 79-85.

<sup>12</sup> TURN/CAUSE-PA R.B. at 3.

<sup>13</sup> RESA Exception at 16-17; NRG Exception at 8.

<sup>14</sup> TURN/CAUSE-PA R.B. at 8.

<sup>15</sup> OCA St. 2 at OCA St. 2-R at 3.

<sup>16</sup> OCA St. 2-SR at 2.

that her concerns were based on the residential billing data supplied by PECO.<sup>17</sup> Moreover, similar concerns regarding the SOP's negative option renewal were highlighted in a statement by Vice Chair Barrow, issued during the course of this proceeding, regarding PECO SOP participants' rate shock experiences following the 12-month term.<sup>18</sup>

Likewise, RESA and NRG disregard the testimony of TURN/CAUSE-PA's witness, Ms. Marx. As she definitively showed, for the six-year period from January 2018 through December 2023:

- Residential customers choosing to shop for EGS supply were charged between 32% and 81% more per month than residential default service customers.<sup>19</sup>
- Residential shopping customers were charged, on average, 57% more than residential default service customers.<sup>20</sup>
- In total, residential shopping customers were charged \$801,873,392.57 more than they would have been charged at PECO's PTC.<sup>21</sup>
- EGS billed residential revenues were nearly 150% of the revenues that would have been billed at PECO's PTC.<sup>22</sup>
- Residential customers choosing to shop for EGS supply were charged, on average, \$0.0328 per kWh more than residential customers choosing to remain on default service.<sup>23</sup>
- The average per kWh charges imposed by EGSs in excess of the default service price ranged from \$0.023 to \$0.055.<sup>24</sup>
- Confirmed low income (CLI) customers choosing to shop face, on average, the highest EGS charges in the market, exceeding the average EGS charges for non-CLI residential customers in every month between February 2019 and December 2023.<sup>25</sup>

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<sup>17</sup> OCA St. 2 at 12-13.

<sup>18</sup> OCA St. 2R at 3-4, Exhibit BA-3.

<sup>19</sup> TURN/CAUSE-PA St. 1 at 7.

<sup>20</sup> TURN/CAUSE-PA St. 1 at 7.

<sup>21</sup> TURN/CAUSE-PA St. 1 at 7.

<sup>22</sup> TURN/CAUSE-PA St. 1 at 11.

<sup>23</sup> TURN/CAUSE-PA St. 1 at 10.

<sup>24</sup> TURN/CAUSE-PA St. 1 at 10.

RESA and NRG would have the Commission disregard this information, simply because the data is derived from a larger group of residential shopping customers, and not limited to the subset with EGS supply due to SOP participation. Importantly, however, Ms. Marx's analysis *actually captures* the billing experiences of SOP participants during, and after, their 12-month program enrollment. Accordingly, the billing data Ms. Marx evaluates is directly relevant to assessing the impact of the SOP on residential customers. RESA points to its witness testimony for support, alleging that numerous EGS offers lower than the PTC were available to residential customers.<sup>26</sup> However, this testimony was thoroughly rebutted by TURN/CAUSE-PA testimony showing that EGS contracts with significantly lower volumetric prices frequently contain fixed charges that eliminate potential savings<sup>27</sup> and the ALJs acknowledge that TURN/CAUSE-PA debunked this price claim.<sup>28</sup> As TURN/CAUSE-PA have explained, the proposed SOP modification is a minor one, that "helps prevent the financial harm that results from inaction by customers who have not affirmatively elected a month-to-month product at the expiration of the SOP term."<sup>29</sup> TURN/CAUSE-PA reiterate that the proposed modification to the SOP is more than adequately supported by substantial evidence on the record of this proceeding.<sup>30</sup>

RESA and NRG's concerns regarding the number of customers returning to default service at the expiration of the 12-month SOP term, and potential impacts on the market for EGS supply, are entirely unsupported. RESA contends that "the likely result is that most, if not all, of the SOP participants will be returned to default service upon SOP contract expiration if the

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<sup>25</sup> TURN/CAUSE-PA St. 1 at 12-13.

<sup>26</sup> RESA Exceptions at 16, citing RESA St. No 1-R at 5.

<sup>27</sup> TURN/CAUSE-PA St. 1-SR at 3-5.

<sup>28</sup> RD at 97.

<sup>29</sup> TURN/CAUSE-PA R.B. at 13.

<sup>30</sup> TURN/CAUSE-PA R.B. at 9-13, Appendix B-1 ¶3.

proposed revisions” to the SOP are adopted.<sup>31</sup> RESA identifies no support for this predictive assertion, which is at odds with the limited, and unreliable survey data from PECO which shows that more than half of the 447 SOP participants surveyed chose a different supplier at the end of the SOP term.<sup>32</sup> Likewise, RESA’s contention that EGSs will simply choose not to participate in the SOP defies record evidence. As Ms. Alexander’s testimony revealed, EGSs participation in the SOP is not driven by the ability to retain the customer based on the negative option renewal process. Instead, “When the EGS sees an opportunity to obtain a new customer for a \$30 payment in the SOP, it is in their business interest to do so but when market conditions indicate significant volatility and increased cost of providing generation supply at a fixed price as occurred in 2022 and early 2023, they exit this market.”<sup>33</sup>

Similarly unsupported is RESA’s contention that proposed modifications to the SOP are “intended to influence an EGS’s pricing decisions going forward.”<sup>34</sup> Importantly, the proposed modifications maintain the precise pricing structure for the SOP that has existed for many years. Additionally, although of questionable value, PECO’s survey data is at odds with RESA’s assertion. Despite the lack of pricing change, RESA apparently misunderstands that EGS’s are required to provide a 7% discount below the PTC *at the time the contract is entered*, not through the entire 12-month term. Thus, customers who return to default service 12 months later would not “have their supply rate automatically increase by 7%,” as RESA inaccurately contends.<sup>35</sup> Customers returning to default service at the end of the SOP 12-month term could experience an

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<sup>31</sup> RESA Exceptions at 19.

<sup>32</sup> PECO St. 1 at 30.

<sup>33</sup> OCA St. 2 at 11-12.

<sup>34</sup> RESA Exceptions at 18.

<sup>35</sup> RESA Exceptions at 18.

increase, a decrease, or no bill impact whatsoever, depending entirely on the default service rate in effect at that time.

Finally, NRG's claim that the proposed SOP modifications would prevent customers from choosing other EGSs is absurd.<sup>36</sup> As NRG is no doubt aware, there is no provision in the SOP that prevents the customer from selecting another EGS as its supplier, whether in the first month or the 12th month of the SOP. Indeed, the RD explicitly recognizes this fact.<sup>37</sup> Customers can freely depart the SOP contract at any time; the modification to return customers to default service is, expressly by its terms, only applicable to SOP participants who do not make an affirmative election to stay with the same supplier at the end of the 12-month term. It simply doesn't apply to customers who select a new EGS.

TURN/CAUSE-PA submit that the ALJs appropriately recognized that the SOP is not legislatively mandated, and so the Commission has the power to alter it.<sup>38</sup> Adopting the proposed SOP modification, supported by the evidence the ALJs recognized, will encourage active customer choice instead of passive rollover into a new contract. The ALJs correctly recognize the public interest will be served by this proposal.<sup>39</sup> RESA and NRGs exceptions concerning the SOP should be denied.<sup>40</sup>

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<sup>36</sup> NRG Exceptions at 6.

<sup>37</sup> RD at 88.

<sup>38</sup> RD at 88.

<sup>39</sup> RD at 88.

<sup>40</sup> TURN/CAUSE-PA note that RESA states it "would much prefer the Commission discontinue the SOP entirely" rather than adopt the proposed modifications herein. RESA could have bargained for that outcome as a settlement term, which was proposed in OCA's testimony (OCA St. 2), but it did not.

### **III. RESA EXCEPTION NO. 1; NRG EXCEPTION NO. 3 (STATEWIDE INVESTIGATION)**

The ALJs found that RESA failed to carry its burden to establish that “changing the messaging of the default service product would allow EGSs to ‘develop more innovative and a greater variety of competitive products’ and ultimately fulfill the legislative purpose behind the Competition Act – the lowering of electric generation rates for the citizens of the Commonwealth.”<sup>41</sup> Additionally, the ALJs found that if a statewide investigation of the kind sought by RESA is warranted, it “should be initiated through a separate petition to permit all stakeholders to comment and not initiated through a single EDC’s default service proceeding.”<sup>42</sup>

RESA excepts to the RD, alleging that, due to Commission-approved messaging about the default service rate being the Price to Compare, customers are being harmed because EGSs are hampered in their ability to offer more innovative, and a greater variety of, products and services.<sup>43</sup> RESA argues that a statewide investigation into how to best educate customers is warranted because many customers are choosing to remain on default service and because of supposed “problems” with the current structure of the competitive market.<sup>44</sup> NRG concurs that a statewide investigation is appropriate.<sup>45</sup> Finally, RESA and NRG both argue that the ALJs erred in finding this PECO DSP proceeding to be the inappropriate vehicle to launch a statewide investigation.<sup>46</sup>

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<sup>41</sup> RD at 98.

<sup>42</sup> RD at 98.

<sup>43</sup> RESA Exceptions at 6.

<sup>44</sup> RESA Exceptions at 6-7.

<sup>45</sup> NRG Exceptions at 9.

<sup>46</sup> RESA Exceptions at 7-8; NRG Exceptions at 10.

TURN/CAUSE-PA oppose opening a statewide investigation as it would constitute an unnecessary waste of time. Messaging regarding shopping for EGS supply, including use of the term “Price to Compare,” has been consistent for decades and appropriately aligned with the recognized core statutory objective of the Choice Act, as recognized by the ALJs – to benefit consumers with lower costs.<sup>47</sup> To accomplish this objective, customers must be able to compare EGS offers based on price, and the Price to Compare is the appropriate mechanism to utilize for this function.<sup>48</sup> TURN/CAUSE-PA maintain that RESA’s proposal is intended to distort or obfuscate price comparisons in order to enable EGSs to charge higher generation rates to customers.<sup>49</sup> Indeed, TURN/CAUSE-PA can find no support for the proposition that the PTC impedes EGSs from competing to attract customers or developing innovative products and services. Rather, the record evidence demonstrates that there are nearly 100 EGSs competing to serve PECO customers and EGSs currently serve 52% of total electric load in PECO’s service territory.<sup>50</sup> Moreover, TURN/CAUSE-PA’s testimony addressed EGS pricing mechanisms, demonstrating that some contracts offer “innovative” products such as daily or monthly fixed charges, as well as volumetric charges.<sup>51</sup> TURN/CAUSE-PA submit that RESA has failed to show how messaging regarding price comparisons affects the products EGSs are capable of developing.

Contrary to RESA’s claims that there are problems with the structure of the competitive market, the data shows that customers are increasingly remaining with or returning to default

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<sup>47</sup> RD at 94; TURN/CAUSE-PA R.B. at 15.

<sup>48</sup> The Choice Act specifically requires that information be provided to consumers “in an understandable format that enables consumers to compare prices and services on a uniform basis.” 66 Pa. C.S. §2807(d)(2).

<sup>49</sup> TURN/CAUSE-PA R.B. at 15

<sup>50</sup> TURN/CAUSE-PA R.B. at 19, *citing* PECO St. 3-R at 57-58.

<sup>51</sup> TURN/CAUSE-PA St. 1-SR at 3-6. Such pricing structures support PECO’s bill changes, which allow for apples-to-apples price comparisons.

service because they are experiencing higher costs when they choose to shop for EGS supply.<sup>52</sup> As discussed above, RESA's witness testified he had identified lower cost EGS offers that customers were simply disregarding, when, in reality, he relied solely on the volumetric charges disclosed by the EGSs, ignoring fixed charges that would affect the bill amounts.<sup>53</sup> Indeed, TURN/CAUSE-PA demonstrated that the same flaw is apparent in the Commission's papowerswitch.com website, where pricing information supplied is incomplete.<sup>54</sup> In short, the record evidence does not support RESA's contention that there are structural problems with the market for electricity in Pennsylvania. Rather, the record evidence supports the need to make EGS pricing information clearer to consumers, and the bill format changes in the Joint Petition do precisely that.

Finally, RESA and NRG claim that a statewide investigation is an appropriate outgrowth of this PECO-specific proceeding.<sup>55</sup> For this proposition, RESA relies upon the Commonwealth Court's unpublished opinion in Respond Power, LLC v. Pa. PUC.<sup>56</sup> That nonprecedential case involved formal complaints filed by suppliers in an attempt to challenge the validity of supplier coordination tariff provisions approved by final PUC order in prior default service proceedings. The Commonwealth Court simply held that the suppliers in that case had an opportunity to litigate the issues concerning those tariff provisions in the DSP proceeding, and could not collaterally attack the Commission's final order due to the constraints of Section 316 of the

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<sup>52</sup> TURN/CAUSE-PA R.B. at 17.

<sup>53</sup> See TURN/CAUSE-PA St. 1-SR at 2-5.

<sup>54</sup> TURN/CAUSE-PA R.B. at 18-20.

<sup>55</sup> RESA Exceptions at 7-8; NRG Exceptions at 10.

<sup>56</sup> RESA Exceptions at 8, n. 18; citing Respond Power, 250 A.2d 547 (2021)

Public Utility Code.<sup>57</sup> Nothing in the Commonwealth Court’s opinion in Respond Power supports, or is even arguably relevant to, RESA’s request for a statewide investigation.

For all of the foregoing reasons, TURN/CAUSE-PA submit that the Commission should affirm the RD, finding that the request for a statewide investigation into default service messaging has not been adequately supported and is unnecessary.

#### **IV. RESA EXCEPTION NO. 3; NRG EXCEPTION NO. 1 (BILL FORMAT CHANGES)**

The Joint Petition includes the agreement of the settling parties that a graphic be added to the first page of the residential customer PECO bill “that compares the customer’s total supplier charges for the billing period with what the dollar amount of the charges would be under PECO’s applicable PTC based on the customer’s usage during the billing period.”<sup>58</sup> RESA contends that the ALJs erred in finding that EGSs have the ability to convey the value of their products through on-bill messaging.<sup>59</sup> RESA suggests that enabling PECO to provide the calculated bill comparison, without informing customers that PECO doesn’t actually know the terms of the EGS’s contract or other context regarding EGS pricing, somehow violates prior dispositive caselaw.<sup>60</sup> RESA and NRG also contend that the comparison chart implicitly judges EGS products on the basis of price and therefore is anticompetitive.<sup>61</sup> TURN/CAUSE-PA submit that RESA and NRG’s Exception should be denied.<sup>62</sup>

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<sup>57</sup> Respond Power, 250 A.3d 547, \*8-9; 66 Pa. C.S. §316.

<sup>58</sup> Joint Petition ¶66.

<sup>59</sup> RESA Exceptions at 11.

<sup>60</sup> RESA Exceptions at 12.

<sup>61</sup> RESA Exceptions at 13; NRG Exceptions at 3-4.

<sup>62</sup> RESA also complains that the RD did not take into consideration the amount of time available before PECO’s bill format would change to consider its concerns. RESA Exceptions at 14. TURN/CAUSE-PA submit this is not a substantive Exception to the RD and is not a valid basis to challenging the ALJs’ findings.

RESA's first basis for its Exception is premised on an unduly narrow reading of the RD. The ALJs found that the proposed bill format "does not inhibit or prohibit a customer from shopping with their chosen EGS in any way, nor does it preclude an EGS from conveying the value of its product through on-bill messaging or any other communications the EGS wants to make with its customers."<sup>63</sup> RESA submits that this finding is "incorrect," not because it is inaccurate or wrong, but rather because EGSs do not get to include messaging to customers on the *first page* of the PECO bill.<sup>64</sup> Yet no changes have been made in this proceeding to limit or change the avenues available to EGSs to communicate with their customers; the proposed bill format change does not in any way reduce those opportunities. Accordingly, RESA's Exception is misplaced as EGSs retain the ability to communicate via the PECO bill and through myriad other strategies beyond the PECO bill.

RESA argues that the graphic depiction of the calculated price of EGS charges versus default service fails to give necessary information to customers. Specifically, RESA contends that PECO should disclose that PECO has no information about the underlying EGS contract and that it should suggest to the customer that it consider "all EGS contract terms" when evaluating price difference.<sup>65</sup> RESA's argument is fundamentally flawed because the customer, not PECO, is in possession of the underlying contract terms.

PECO's graphic price comparison is, as the ALJs recognized, "vital to helping customers understand and evaluate, on an ongoing basis, whether their EGS prices are consistent with their expectations."<sup>66</sup> In other words, information about ongoing pricing is intended to do just want

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<sup>63</sup> RD at 106.

<sup>64</sup> RESA Exceptions at 11-12.

<sup>65</sup> RESA Exceptions at 12.

<sup>66</sup> RD at 106.

RESA appears to want: encourage the customer to evaluate their experience in light of the agreement with the EGS. That necessarily involves consideration of the underlying contract terms, which are known only to the EGS and its customer. RESA argues that PECO is required to provide more information than the comparison chart, in reliance upon Mid-Atlantic Power Supply Ass'n v. Pa. PUC.<sup>67</sup> Mid-Atlantic considered whether PECO was providing adequate information when advertising its provider of last resort service pursuant to 66 Pa. C.S. §2807(d)(2). Because PECO provides last resort service, 66 Pa. C.S. §2807(d)(2) required PECO to provide adequate customer information.<sup>68</sup> Here, however, PECO does not provide the EGS service and, in fact, only receives EGS information on a bill-ready basis. Accordingly, PECO does not have an obligation to provide more information regarding EGS service it does not supply and RESA's reliance upon Mid-Atlantic is misplaced.

Finally, RESA and NRG argue that the price comparison chart implicitly judges EGS contracts on the basis of price alone and thereby discourages shopping.<sup>69</sup> As a consequence, they contend that the chart is anti-competitive.<sup>70</sup> The ALJs directly addressed these arguments, rejecting claims that the bill format changes are anti-competitive and stating “There is no inherent or implicit judgment in showing the EGS price a customer is paying for generation service *and the additional benefits an EGS provides* and default service charges for the equivalent amount of generation, nor is the billing format precluded in any way by” the Choice Act.<sup>71</sup> RESA and NRG continue to disregard the substantial record evidence that customers do, in fact, take into account non-price considerations when selecting EGS supply. Indeed,

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<sup>67</sup> 755 A.2d 723 (Pa. Commw. Ct. 2000).

<sup>68</sup> Mid-Atlantic, 755 A.2d at 726.

<sup>69</sup> RESA Exceptions at 13; NRG Exceptions at 2-4.

<sup>70</sup> RESA Exceptions at 13; NRG Exceptions at 3.

<sup>71</sup> RD at 106 (emphasis added).

customers testifying on the record in this proceeding “readily acknowledged that they chose to pay more for certain types of energy.”<sup>72</sup> Including a price comparison is just as relevant to customers who expect to pay a premium for certain EGS products as it is to those customers choosing an EGS to save on their bills. TURN/CAUSE-PA submit that the price comparison is a simple and neutral depiction of the calculated cost of EGS supply alongside the PTC and the Commission should adopt the ALJs’ recommendation to approve PECO’s proposed bill format modification.

**V. CONCLUSION**

As set forth herein, TURN/CAUSE-PA submit that the Commission should deny RESA and NRG’s Exceptions and approve the Joint Petition without modification.

Respectfully submitted,

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<sup>72</sup> TURN/CAUSE-PA R.B. at 21-22; TURN/CAUSE-PA St. 1-R at 8-9.