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September 16, 2024

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

VIA ELECTRONIC FILING

RE: Petition of PECO Energy Company for Approval of Its Default Service Plan for the Period from June 1, 2025 Through May 31, 2029; Docket No. P-2024-3046008

Dear Secretary Chiavetta:

Attached for filing with the Pennsylvania Public Utility Commission are the Reply Exceptions of the Philadelphia Area Industrial Energy Users Group ("PAIEUG"), in the above-referenced proceeding.

As shown by the attached Certificate of Service, all parties to this proceeding are being duly served with a copy of this filing. If you have any questions regarding the document, please contact the undersigned. Thank you.

Sincerely,

A handwritten signature in cursive script that reads 'Charis Mincavage'.

Charis Mincavage
MCNEES WALLACE & NURICK LLC

Counsel to the Philadelphia Area Industrial Energy Users Group

c: Administrative Law Judge Eranda Vero (via e-mail)
Administrative Law Judge Arlene Ashton (via e-mail)
Certificate of Service

CERTIFICATE OF SERVICE

I hereby certify that I am this day serving a true copy of the foregoing document upon the participants listed below in accordance with the requirements of Section 1.54 (relating to service by a participant).

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Dated this 16th day of September, 2024, in Harrisburg, Pennsylvania

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

**REPLY EXCPTIONS OF THE
PHILADELPHIA AREA INDUSTRIAL ENERGY USERS GROUP**

Airgas USA, LLC, an Air Liquide Company	Philadelphia College of Osteopathic
The Boeing Company	Medicine
Cleveland-Cliffs	Saint Joseph's University
Drexel University	Swarthmore College
GlaxoSmithKline	Temple University
Kimberly-Clark Corporation	Thomas Jefferson University
Main Line Health	Villanova University
Merck & Co., Inc.	

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Dated: September 16, 2024

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I. INTRODUCTION

On February 2, 2024, PECO Energy Company ("PECO" or the "Company") filed with the Pennsylvania Public Utility Commission ("PUC" or "Commission") a Petition for Approval of the Company's Sixth Default Service Program ("DSP VI") for the Period from June 1, 2025 through May 31, 2029, Docket No. P-2024-3046008 (Feb. 2, 2024) (hereinafter, "Petition"). On February 21, 2024, the Philadelphia Area Industrial Energy Users Group ("PAIEUG") filed a Petition to Intervene in the proceeding. A Prehearing Conference was held on March 8, 2024, before Administrative Law Judges ("ALJs") Eranda Vero and Arlene Ashton during which the procedural schedule was established.

On July 10, 2024, a Joint Petition for Non-Unanimous Settlement ("Joint Petition" or "Settlement") was filed by the settling parties, with PAIEUG indicating that it did not oppose the Settlement. In addition, the Retail Energy Supply Association ("RESA") and NRG Energy Inc. ("NRG") indicated opposition to the Settlement. On July 17, 2024, Main Briefs ("M.B.") were submitted in this proceeding, with Reply Briefs ("R.B.") submitted on July 31, 2024.

ALJs Vero and Ashton issued their Recommended Decision ("R.D.") on September 3, 2024, correctly finding that the Joint Petition be approved without modification, thereby denying RESA's and NRG's objections.

On September 10, 2024, PAIEUG received Exceptions ("Exc.") from NRG and RESA. PAIEUG files these Reply Exceptions in order to specifically respond to: (1) NRG's and RESA's arguments regarding the implementation of a statewide investigation; and (2) RESA's argument regarding the imposition of a non-bypassable charge in connection with the procurement of solar alternative energy credits.

II. REPLY EXCEPTIONS

A. Reply to RESA Exception No. 1 and NRG Exception No. 3: The ALJs Correctly Determined that Any Statewide Investigation Should be Initiated Through a Separate Petition.

As part of this proceeding, RESA suggested that the PUC pursue a statewide investigation focused on the messaging of default service and allowing interested stakeholders to have a say in that message through a statewide investigation.¹ R.D. at 90. The ALJs found that RESA did not carry its burden of proof regarding the changing of messaging for the default serviced product. *Id.* at 98. In addition, the R.D. determined that any statewide investigation on this issue should be initiated through a separate petition. *Id.* RESA and NRG excepted to the R.D.'s recommendation, arguing that PECO's default rate proceeding is the appropriate place by which to address this issue and that the R.D. failed to provide a procedural or substantive reason to require a separate petition for this issue. RESA Exc., pp. 7-8; NRG Exc., p. 10. Because the ALJs correctly determined that a statewide investigation would more appropriately allow all stakeholders to comment on these issues, RESA's and NRG's Exceptions should be rejected.

In an effort to address what RESA claims are "current competitive market deficiencies," RESA proposed that the PUC initiate a statewide investigation regarding default service messaging. R.D. at 90. Specifically, RESA insisted that the time has come for the Commission to investigate these issues and that a statewide investigation would enable the PUC to issue data requests and take the time that is needed to consider all issues. *Id.* at 91. While PAIEUG did not take a position on default service messaging, PAIEUG did have concerns regarding implementing a statewide investigation through a single Electric Distribution Company's ("EDC") default service proceeding. Rather, PAIEUG submitted that RESA should make this request to the PUC via a

¹ NRG supported RESA on this argument. R.D. at 91.

separate petition. PAIEUG M.B., p. 5. The ALJs agreed with PAIEUG, noting that a separate petition would permit all stakeholders the ability to comment on these default issues. R.D. at 98.

As part of its Exceptions, RESA argues that a default service proceeding is the appropriate place in which to consider the default rate structure. RESA Exc., p. 7. RESA also suggests that the PUC has previously found that a "default service proceeding is the opportunity for competitive suppliers to raise issues related to the EDC's proposed default structure and other mechanisms which have a direct impact on the ability of competitive suppliers to operate." *Id.* at 7-8. NRG claims that the R.D. did not identify a reason to require a separate petition, noting that suppliers with issues regarding default service design must participate in default service proceedings. To that end, NRG suggests that denying a further investigation on the procedural basis that a different method of making the request should have been used is unreasonable. NRG Exc., p. 10.

Contrary to RESA's and NRG's claims, the R.D. appropriately found that a statewide investigation should permit all stakeholders the ability to comment. R.D. at 98. Indeed, RESA specifically notes that a default proceeding is the opportunity for suppliers to raise issues related to an EDC's default structure. In other words, a single EDC's default proceeding would raise issues related to that EDC's specific default structure with suppliers providing service within that EDC's service territory participating in the proceeding. If RESA and NRG specifically seek a statewide investigation, a separate petition is the best means by which to alert EDCs, their competitive suppliers, and all other interested stakeholders of the issues being reviewed. Accordingly, the R.D. correctly finds that RESA's request for a statewide investigation should be filed as a separate proceeding. For that reason, RESA and NRG's Exceptions should be denied.

B. Reply to RESA Exception No. 6: The R.D. Correctly Approved the Solar AEC Procurement Plan Set Forth in the Joint Petition for Non-Unanimous Settlement.

As part of its filing, PECO proposed to continue its long-standing practice of allocating solar AECs delivered under PECO's separate procurements to default service suppliers. R.D. at 64. RESA advocated to modify this practice, inclusive of having PECO obtain solar AECs for both shopping and non-shopping customers. PAIEUG M.B., p. 3. Because of the contractual issues that could arise for shopping customers, PAIEUG indicated a concern with this proposal. *Id.* at 3-5. The R.D. determined that PECO's plan for AEC compliance, as modified by the Settlement, is reasonable. Importantly, the Settlement does not require PECO to obtain AECs for its shopping customers. R.D. at 64.

In its Exceptions, RESA notes that it was agreeable to an alternative approach that would still allow PECO to assume responsibility for AEC procurement for all of its customers, but the Settlement does not make any revisions regarding this alternative. RESA Exc., p. 25. As set forth in the R.D., the ALJs reasonably find that RESA has provided no basis for any changes to PECO's procurement. R.D. at 64. For that reason, the R.D. recommended adoption of PECO's AEC procurement proposal (as modified by the Settlement), which does not require PECO to procure AECs for shopping customers. *Id.* Because the ALJs found these terms to be reasonable, supported by the record, and in the public interest, RESA's alternative approach is unnecessary. *Id.* Accordingly, RESA's exception should be rejected.

III. CONCLUSION

WHEREFORE, the Philadelphia Area Industrial Energy Users Group respectfully requests that the Pennsylvania Public Utility Commission reject NRG's and RESA's Exceptions as set forth herein.

Respectfully submitted,

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