COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
400 North Street, HARRISBURG, PA 17120

IN REPLY PLEASE
REFER TO OUR FILE

September 17, 2024

ALL PARTIES OF RECORD

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 Number: P-2024-3046008

To All Parties of Record:

On September 16, 2024, my office received Reply Exceptions to the Initial Decision of Administrative Law Judge Vero in the above captioned matter. Our review of the filing revealed that no certificate of service or other indication that the parties of record to the case were served with the Exceptions. Therefore, we have enclosed a copy of the Exceptions to constitute service for purposes of 52 Pa. Code §5.533.

Sincerely,

Rosemary Chiavetta
Secretary

Enclosure
RC: acg

cc: All Parties of Record
Document Folder

**BEFORE THE**
**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

| | | |
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| **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** |

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**REPLY EXCEPTIONS ON BEHALF OF CALPINE RETAIL HOLDINGS, LLC**

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September 16, 2024

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# I. INTRODUCTION

These Reply Exceptions are filed on behalf of Calpine Retail Holdings, LLC ("Calpine Retail") to address Exception No. 6 of Retail Energy Supply Association's ("RESA") Exceptions to the Recommended Decision dated September 8, 2024, by Administrative Law Judges Eranda Vero and Arlene Ashton (the "RD").

In Exception No. 6, RESA contends that the RD errs by approving the procurement plan for solar alternative energy credits ("AECs") because the proposal will prevent accurate comparisons between the default service rate and Electric Generation Supplier ("EGS") pricing. More specifically, RESA once again seeks approval of its proposal (or now a variation thereof i.e., the Alternative Proposal as described below) that in connection with the procurement by PECO of proposed long-term contracts for solar AECs, (i) the acquired solar AECs be assigned to all load serving entities on a load ratio share basis and (ii) PECO recover the costs of the long-term procurements from all customers, not just default service customers, through a non-bypassable charge (the "RESA Proposal"). In Exception 6 to the RD, RESA states that it "was agreeable to the alternative approach proposed by OCA Witness Ogur, in which PECO would assume responsibility for the entire Solar AEC obligation for its entire distribution load and recover the costs via a non-bypassable charge so long as it was phased in to address contract timing concerns."

As background, the Office of Consumer Advocate ("OCA") has opposed any change in recovery of costs of long-term procurement of solar AECs, and Calpine Retail supports OCA in this regard. OCA, however, has raised, but has not recommended, the possible adoption of an alternative to the RESA Proposal. Under this alternative, if the Commission were to accept RESA's proposed change to PECO's solar AEC procurement, then the Commission would also apply a lag of two or three years for implementation of RESA's proposal after a Commission order adopting it (the "Alternative Proposal"). OCA has previously made clear in this proceeding that OCA has not recommended the Alternative Proposal. Further, while RESA is apparently now agreeable to the Alternative Proposal, OCA has also previously made clear that RESA's support for a supposed OCA alternative proposal is inconsistent with the fact that OCA has not recommended the implementation of the Alternative Proposal.

Calpine Retail supports the Recommended Decision on this issue of the recovery of costs of the procurement of solar AECs and, specifically, (i) the rejection of the RESA Proposal and the Alternative Proposal and (ii) the continuance by PECO in DSP VI of delivering solar AECs allocated to default service suppliers, but not ESGs, and recovering the costs of the long-term procurement of AECs from default service suppliers only. The RESA Proposal and the Alternative Proposal seek to overturn precedent set forth in prior DSP proceedings including DSP V, including, regarding PECO's assignment of solar AEC's and the recovery of the costs thereof.

## II. REPLY TO EXCEPTIONS

### A. The RESA Proposal and the Alternative Proposal Regarding the Imposition of a Non-Bypassable Charge on Load Serving Entities in connection with the Procurement of Solar AECs are Anti-competitive Should Be Rejected

In Exception No. 6, RESA states that in view of the RD, solar AECs would still be procured pursuant to a long-term contract to be used exclusively for the requirements of the default service load. RESA argues that in recommending that this proposal be adopted, the RD fails to address RESA's concerns to ensure the proposal is competitively neutral and ignores how this proposal impacts the resulting default service rate in the overall retail competitive market structure.

While RESA claims to support competition, the RESA Proposal for a non-bypassable charge is anti-competitive and would hurt ESGs. Under the Alternative Energy Portfolio Standards Act, Electric Distribution Companies ("EDCs") and EGSs must acquire AECs. The ESGs are in the best position to manage the procurement of AECs and the recovery of the costs thereof. EGSs have the ability to hedge their positions, and it is reasonable for EGSs to procure their own solar AECs. The better the ESGs can manage their procurement of AECs, the better they will be able to create efficiencies and compete in the marketplace. Yet, the RESA Proposal and the Alternative Proposal that RESA now supports clearly suggest that RESA has difficulty managing its procurement of AECs, and that it wants relief with respect to its own business decisions and shortcomings.

RESA's solution is to excuse EGSs from the obligation to manage their procurement of AECs and the costs thereof and to treat everyone as if their procurement needs are just like everyone else's, thereby resulting in the remove competition and associated products and services from the marketplace. Those that are better at managing their AEC procurement needs would no longer be able to offer products and services. The RESA Proposal and the Alternative Proposal to replace reliance on competition with ESGs handling their own individual costs of procuring solar AECs with a shifting of their procurement costs to all customers (i) would remove competitive discipline and reward the underperformers in the marketplace, (ii) simultaneously punish those who hold themselves accountable for their own business decisions and (iii) force the spreading of these costs among all PECO customers, both those taking service under PECO's Default Service Plan and also those who are served by EGSs.

Competitive solutions to handle costs and risks should not be stifled because RESA is facing competitive discipline resulting from the need to perform in a marketplace and face accountability for its own business and operational management decisions. There must be market consequences and accountability for lack of performance in a market.

## III. CONCLUSION

For the foregoing reasons, the RESA Proposal and the Alternative Proposal, now apparently supported by RESA, should be rejected. There should be no change to the way costs relating to the procurement of solar energy AECs are recovered by PECO.

Respectfully submitted,

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