

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Harrisburg, Pennsylvania 17105-3265

**PETITION OF PECO
ENERGY COMPANY**

**PUBLIC MEETING –
DECEMBER 6, 2007
NOV-2007-OSA-0272*
DOCKET NO: P-00072260**

MOTION OF COMMISSIONER TYRONE J. CHRISTY

Before us is the Recommended Decision of ALJ Chestnut in the above-captioned proceeding, as well as the Exceptions of the Office of Small Business Advocate (OSBA) and the Reply Exceptions of PECO Energy Company (PECO) and PennFuture.

PECO's Petition seeks various approvals related to a proposed process for the procurement of alternative energy credits (AECs) during the AEPS banking period. Because this Petition is one of first impression, it will create a precedent for similar petitions that likely will be filed by other electric distribution companies in the future. Therefore, our decision today likely will have an impact beyond the confines of this one proceeding.

Although I have several questions concerning the Petition that are not answered in the record presented to us, on balance I believe that PECO's initiative to obtain AECs in advance of its AEPS compliance requirements is reasonable. However, one aspect of PECO's proposed procurement procedure is very troubling, namely the limitations on the Commission's opportunity to review the results of PECO's RFP. Specifically, PECO's proposal would limit the Commission's review period to "one business day" and seemingly would limit the information provided to the Commission to a report from the RFP Monitor "on bidder qualification and bid results." Petition at 9. Given the potential costs to PECO's customers, which could approach \$100 million, I believe that the Commission needs a meaningful opportunity to review the results of the RFP. I do not believe that 24 hours to review a report on bidder qualifications and bid results is sufficient.

These limitations essentially would eviscerate the Commission's power to meaningfully review the costs to be imposed on PECO's customers and substitute in its place a meaningless opportunity to "rubber stamp" the results of the RFP. Perhaps such an abbreviated procedure is justified in the market for short-term power purchases, where prices change very quickly. However, in this instance we are dealing with an entirely different commodity and a market with vastly different characteristics. Unlike the short-term power market, AEC prices are not constantly changing and the commodity is not created and used simultaneously. In short, the AEC market moves much more slowly than the market for short-term power. For these reasons, I do not believe that the proposed limitations on the Commission's power to review the results of the RFP are justified.

With regard to the time period allotted to Commission review, I propose an expansion from one to three business days. Although this too is an abbreviated period, it at least would allow for some meaningful review. It is noteworthy that, while it is proposed that the Commission have only one business day to review the RFP Monitor's report, PECO built 15 days into the proposed RFP Schedule for the execution of the AEC purchase and sale agreements following notification of the winning bidders. The contrast is informative.

In addition, I believe that the Commission must receive more than a report from the RFP Monitor on bidder qualification and bid results. Specifically, I believe that the following information will be necessary to meaningfully evaluate the results of PECO's RFP: (1) the name and location of the generating facility; (2) the names and percentage ownership of the facility's owners; (3) whether any of these owners are a PECO affiliate; (4) the facility's energy source (wind, coal bed methane, etc.); (5) the facility's nameplate capacity rating and expected capacity factor; (6) the facility's projected annual energy output; (7) plans for the sale of the facility's energy output; (8) the project's development status, including anticipated commercial operation date; and (9) the number, price and delivery date of the AECs that were bid. Such information of course may be provided to the Commission under a protective order.

Finally, I believe that PECO's requested assurances from the Commission go too far in one respect. Specifically, PECO has requested a finding that its proposed RFP "will result in reasonable prices" for the AECs purchased pursuant to this RFP. I believe that it is more accurate to state the Commission expects that the RFP will result in reasonable prices, as opposed to concluding that the prices are reasonable without knowing what they are.

These issues were not raised on Exception; therefore, I believe that a Tentative Order with a seven-day comment period is appropriate. The Exceptions filed by the Small Business Advocate should be denied for the reasons set forth by the Office of Special Assistants.

THEREFORE, I MOVE THAT:

1. The Office of Special Assistants prepare a Tentative Opinion and Order consistent with this motion.
2. If no comments are filed, the Tentative Opinion and Order shall become final without further action of the Commission.
3. If comments are filed in response to the Tentative Opinion and Order, this matter shall be considered by the Commission at the Public Meeting of December 20, 2007.

DATE

TYRONE J. CHRISTY, COMMISSIONER