

**PENNSYLVANIA PUBLIC UTILITY COMMISSION
HARRISBURG, PENNSYLVANIA 17105**

**PETITION OF PECO ENERGY
COMPANY FOR APPROVAL OF
ITS ACT 129 ENERGY EFFICIENCY
AND CONSERVATION PLAN AND
EXPEDITED APPROVAL OF ITS
COMPACT FLUORESCENT LAMP
PROGRAM**

**Public Meeting August 6, 2009
Docket No. M-2009-2093215
C-0015**

**MOTION OF
COMMISSIONER ROBERT F. POWELSON**

Before us today is the record related to PECO Energy Company's ("PECO") Energy Efficiency and Conservation Plan ("Plan"), certified to us by the August 4, 2009 Order of Administrative Law Judge Marlane Chestnut ("ALJ Chestnut"). Included in the record is the Joint Petition for Partial Settlement of the portion of PECO's Plan related to the deployment of compact fluorescent lamps ("CFLs"), filed on July 30, 2009 ("July 30 Joint Petition").

By way of background, PECO filed its Plan with the Commission on July 1, 2009, pursuant to the mandates of Act 129 of 2008.¹ Included in that filing was the Company's Petition for Expedited Approval of the CFL portion of its Plan ("July 1 Petition").

PECO requested early approval of its CFL initiative in order to participate in the 2009 ENERGY STAR® "Change a Light, Change the World" program ("ENERGY STAR® Program") sponsored by the United States Department of Energy and the United States Environmental Protection Agency, which will be held in October in Philadelphia. PECO states that it intends to roll out its CFL program in conjunction with this program so as to leverage promotional synergies with this nationwide program. PECO believes that early approval will result in 73,492 MWh of savings in 2010, which PECO projects will increase to over 290,000 MWh of savings by the end of the fourth year of the program.²

Notice of PECO's plan was published in the Pennsylvania Bulletin on July 18, 2009,³ which set July 27, 2009, as the due date for Interventions and August 7, 2009, as the due date for any Answers and/or Comments.⁴ Numerous parties intervened on

¹ 66 Pa. C.S. § 2806.1.

² July 30 Joint Petition at ¶ 7. See also July 1 Petition at 2.

³ 39 Pa.B. 4196.

⁴ Notice to the public was also provided through notices published in the major newspapers in PECO's service territory as well as the issuance of a press release to all major media in the service territory and the posting of PECO's Plan on the Company's website.

or before the July 27, 2009 deadline.⁵ PECO and several intervenors⁶ subsequently filed the July 30 Joint Petition. It was represented in the Joint Petition that the remaining parties of record⁷ do not oppose the settlement.⁸ ALJ Chestnut then issued her Order on August 4, 2009 certifying the Record allowing us to rule on the July 30 Joint Petition.

The Joint Petition does not address any cost issues⁹ associated with PECO's plan, and specifically defers consideration of those elements of the plan, along with any prospective recommendations regarding PECO's CFL program, for later resolution.¹⁰

I believe action on the July 30 Joint Petition at this time is in the public interest. To put the CFL portion of PECO's plan in context, PECO's estimate of 73,492 MWh of savings in the first program year (2009) represents almost 60% of its projected 123,013 MWh of savings for that year, and the 290,000 MWh of savings in 2012 represents over a quarter of its total estimated savings of 1,090,762 MWh for 2012.¹¹ PECO projects \$158 million in total benefits from its CFL program at a projected cost of only \$47 million, making it the most cost-effective of all of the programs set forth in PECO's Plan.¹² CFLs are the very definition of "low-hanging fruit" when it comes to energy conservation.

In my opinion, it is important that the Commission do everything in its power to assist the Commonwealth's electric distribution companies (EDCs) in achieving their Act 129 goals, particularly in instances when the EDCs can enhance their plans with little or no additional incremental costs to customers. These goals are too important for us to simply act as regulators; we must also act as partners with the EDCs to the extent possible and appropriate.

I believe PECO's proposal to participate in the nationwide ENERGY STAR® Program demonstrates such an instance. Without early approval, PECO will likely lose all of its projected 2009 savings, while, at the same time, it appears that PECO's participation in this program will come at little or no additional cost to its rate payers.

⁵ There is one late-filed intervention currently pending.

⁶ The Office of Consumer Advocate ("OCA"); the Office of Trial Staff ("OTS"); The Reinvestment Fund ("TRF"); Citizens for Pennsylvania's Future, Joy Bergey, Christine Knapp, and Henry Rowan ("PennFuture, *et al.*"); Field Diagnostic Services, Inc. ("Field Diagnostic"); the Association of Community Organizations for Reform Now ("ACORN"); and the City of Philadelphia ("City of Philadelphia").

⁷ The Office of Small Business Advocate ("OSBA"), the Philadelphia Area Industrial Energy Users Group ("PAIEUG"), the Tenant Union Representative Network and Action Alliance of Senior Citizens of Greater Philadelphia ("TURN, *et al.*"), Direct Energy Business, LLC ("Direct Energy") and the Pennsylvania Department of Environmental Protection ("DEP")

⁸ July 30 Joint Petition at 1, n.1.

⁹ "Cost issues" shall be considered to include issues related to the Total Resource Cost test cost-benefit analysis.

¹⁰ July 30 Joint Petition at ¶ 10.

¹¹ PECO Plan at 5.

¹² *Id.*

I am cognizant, however, that while the intervention period has closed, Answers and Comments to PECO's Plan are not due until tomorrow, August 7, 2009. While I feel strongly about providing PECO with the assistance needed in order to participate in the ENERGY STAR® Program, that assistance should in no way circumvent our constitutional obligation to provide due process. Approval of the July 30 Joint Petition is therefore conditioned on no timely Answers or Comments being filed in opposition to that part of the CFL portion of PECO's plan addressed herein. In the event that no adverse Comments or Answers are filed, the July 30 Joint Petition shall be deemed to be approved effective immediately upon the close of the Answer/Comment period. If any adverse Comments and/or Answers are filed, however, the July 30 Joint Petition shall be denied and this portion of PECO's Plan shall be remanded to the Office of Administrative Law Judge for further proceedings.

Therefore, I move that,

1. The Joint Petition for Partial Settlement is tentatively approved with the following conditions:
 - a. If no Comments and/or Answers are filed, the Joint Petition for Partial Settlement is approved effective immediately upon the close of the Answer/Comment period;
 - b. If Comments and/or Answers are filed that raise issues related to the design of PECO's CFL program, the Petition is denied;
 - c. If Comments and/or Answers are filed, but only raise cost issues unrelated to program design, the Petition is approved;
2. A Secretarial Letter memorializing the Commission's decision be issued as soon as expediently possible;
3. The Office of Special Assistants prepare an Opinion and Order consistent with this Motion; and
4. The remainder of the Record be remanded to the Office of Administrative Law Judge for further proceedings on the remaining portions of PECO's Energy Efficiency and Conservation Plan.

DATED: August 6, 2009

**Robert F. Powelson
Commissioner**