


COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

555 Walnut Street, 5th Floor, Forum Place  
Harrisburg, Pennsylvania 17101-1923  
(717) 783-5048  
800-684-6560

 @pa\_oca

 /pennoca

FAX (717) 783-7152  
consumer@paoca.org

April 3, 2020

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

Re: Petition of PECO Energy Company for  
Approval of a Default Service Program for  
the Period of June 21, 2021 through May 31, 2025  
Docket No. P-2020-3019290

Dear Secretary Chiavetta:

Enclosed please find the Answer of the Office of Consumer Advocate in the above-referenced proceeding.

Copies have been served as indicated on the enclosed Certificate of Service.

Respectfully submitted,

/s/ Aron J. Beatty  
Aron J. Beatty  
Senior Assistant Consumer Advocate  
PA Attorney I.D. # 86625  
E-Mail: ABeatty@paoca.org

Enclosures:

cc: The Honorable Eranda Vero (**email only**)  
Certificate of Service

\*286052

CERTIFICATE OF SERVICE

Re: Petition of PECO Energy Company for Approval :  
of a Default Service Program for the Period of : Docket No. P-2020-3019290  
June 1, 2021 through May 31, 2025 :

I hereby certify that I have this day served a true copy of the following document, the Office of Consumer Advocate's Answer, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 3<sup>rd</sup> day of April 2020.

**SERVICE BY E-MAIL ONLY**

Richard A. Kanaskie, Esquire  
Bureau of Investigation & Enforcement  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2<sup>nd</sup> Floor  
Harrisburg, PA 17120

Erin K. Fure, Esquire  
Office of Small Business Advocate  
555 Walnut Street  
1<sup>st</sup> Floor, Forum Place  
Harrisburg, PA 17101-1923

Kenneth M. Kulak, Esquire  
Anthony C. DeCusatis, Esquire  
Catherine G. Vasudevan, Esquire  
Brooke E. McGlenn, Esquire  
Morgan, Lewis & Bockius LLP  
1701 Market Street  
Philadelphia, PA 19103-2921

Charis Mincavage, Esquire  
Adeolu A. Bakare, Esquire  
Jo-Anne S. Thompson, Esquire  
McNees Wallace & Nurick LLC  
100 Pine Street  
P.O. Box 1166  
Harrisburg, PA 17108-1166

Elizabeth R. Marx, Esquire  
John Sweet, Esquire  
Ria Pereira, Esquire  
Pennsylvania Utility Law Project  
118 Locust Street  
Harrisburg, PA 17101

W. Craig Williams, Esquire  
Exelon Business Services Company  
2301 Market Street  
S23-1  
P.O. Box 8699  
Philadelphia, PA 19101-8699

Christopher O'Hara, Esquire  
Vice President, General Counsel  
PJM Interconnection  
2750 Monroe Boulevard  
Audubon, PA 19403-2497

/s/ Aron J. Beatty

Aron J. Beatty  
Senior Assistant Consumer Advocate  
PA Attorney I.D. # 86625  
E-Mail: [ABeatty@paoca.org](mailto:ABeatty@paoca.org)

David T. Evrard  
Assistant Consumer Advocate  
PA Attorney I.D. # 33870  
E-Mail: [DEvrard@paoca.org](mailto:DEvrard@paoca.org)

Counsel for:  
Office of Consumer Advocate  
555 Walnut Street  
5<sup>th</sup> Floor, Forum Place  
Harrisburg, PA 17101-1923  
Phone: (717) 783-5048  
Fax: (717) 783-7152  
Dated: April 3, 2020  
\*286053

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of PECO Energy Company :  
For Approval of its Default Service :  
Program for the Period from : Docket No. P-2020-3019290  
June 1, 2021 through May 31, 2025 :

---

ANSWER  
OF THE  
OFFICE OF CONSUMER ADVOCATE

---

**I. INTRODUCTION**

On March 13, 2020, PECO Energy Company (PECO or the Company) filed its Petition for Approval of its Default Service Plan for the Period from June 1, 2021 through May 31, 2025 (DSP V or the Plan) pursuant to 66 Pa. C.S. § 2807(e) of the Pennsylvania Public Utility Code, the Default Service Regulations of the Pennsylvania Public Utility Commission (Commission), and the Commission’s Policy Statement on Default Service.

In its Petition, PECO proposes to acquire supply for residential customers by procuring the mix of laddered one-year and two-year full requirements products, with two-month spacing between the start of the contract delivery periods, long-term products consisting of five-year full requirements products and spot purchases. Petition at ¶ 16. PECO proposes to purchase approximately 99% of its residential customer default service load through the laddered one- and two-year full requirements products with the remaining 1% of default service supply for residential customers from spot market purchases. Petition at ¶ 16. The winning bidders for the default service supply contracts will also be responsible for transferring Tier I and Tier II Alternative Energy Credits (AECs) to PECO in order to meet PECO’s requirements of the

Alternative Energy Portfolio Standards Act (AEPS) associated with the amount of default service load served by that supplier. Petition at ¶ 27.

The Plan for residential default service will be for a four-year duration, starting on June 1, 2021 and ending on May 31, 2025. Petition at ¶ 13. No supplier will be permitted to provide more than fifty percent (50%) of the default service supply for any one of PECO's procurement classes. Petition at ¶ 24.

PECO has proposed to continue the existing DSP IV Contingency Plan in the event that one or more tranches are not fully subscribed through the procurement process, or in the event that a winning bidder defaults prior to the time for delivery. Petition at ¶ 32. For those tranches, PECO will assume the responsibility for any tranches that are unfilled in default service supply. Id. Any unfilled tranches will be procured from PJM-administered markets for energy, capacity and ancillary services. Id. PECO proposes that if the default occurs within a reasonable time before a scheduled procurement, the unfilled tranches will be included in PECO's next scheduled procurement. Id. Alternatively, PECO will file a plan with the Commission regarding alternative procurement options and a request for approval of the plan on an expedited basis. Id.

PECO does not propose rate design changes for residential customers receiving traditional default service supply. Petition at ¶ 36. The Company proposes, however, a voluntary Time of Use (TOU) rate option that will be offered to residential and small business customers. Petition at ¶¶ 40-48.

Additionally, PECO proposes to continue the Standard Offer Program from June 1, 2021 through May 31, 2025. Petition at ¶ 55. The Company further proposes a CAP shopping plan that would allow CAP customers to receive generation from Electric Generation Suppliers (EGSs) at prices at or below the PECO price to compare (PTC). Petition at ¶59.

## II. ANSWER

The OCA has preliminarily reviewed the Company's Petition and identified a number of issues presented by the filing. The OCA anticipates that additional issues will arise as a more comprehensive review of PECO's filing is undertaken and after discovery is conducted. The preliminary issues identified by the OCA include:

### A. Default Service and Implementation Plans

#### 1. Procurement Classes, Program Term, and Supply Portfolio

In DSP V, PECO proposes to continue for four years the basic procurement strategy used during DSP IV for residential customers, consisting of a blend of laddered one-year and two-year full requirements contracts. Petition at ¶ 16. These contracts include energy, capacity, ancillary services, "and all other services or products necessary to serve a specified percentage" of default service load. Petition at ¶ 15. As discussed above, these purchases will comprise approximately 99% of PECO's purchases.

The OCA submits that further evaluation is necessary to determine whether the proposed purchasing plan will provide the least cost over time for residential customers in accordance with the requirements of Act 129. The OCA intends to examine the type and mix of resources, the procurement methodologies, and recent changes in wholesale capacity markets, to ensure that the products and the plan are designed to provide reasonable and stable rates while meeting the requirements of Act 129.

#### 2. Competitive Bid Solicitation Process and Independent Evaluator

As the Company did in DSP IV, PECO proposes to solicit bids for default service supply that would extend beyond the DSP V term to avoid problems associated with procuring significant amounts of supply at a single point in time when prices may be the highest. Petition

at ¶ 19. PECO proposes to again use NERA as the independent third-party evaluator. Id. at ¶ 24. The Request for Proposal (RFP) would require that no supplier be permitted to provide more than fifty percent (50%) of the default service supply for any one of PECO's procurement classes. Id.

The OCA submits that the Commission should review the Company's proposed RFP and the solicitation process to ensure that the contracts are procured in the most effective manner in compliance with the Commission's regulations.

### 3. Consistency with Regional Transmission Organization Requirements

PECO also states that its program is “consistent with the legal and technical requirements pertaining to the generation, sale and transmission of electricity of the [regional transmission organization] in whose control area the DSP is providing service.” Petition at ¶ 26, citing 52 Pa. Code § 54.185(e)(4). PECO's Supplier Master Agreements (SMA) will continue to impose requirements on both PECO and its suppliers to maintain specific qualifications under applicable PJM agreements and rules and all other regulatory authorizations necessary to perform the contractual obligations. Petition at ¶ 26. Suppliers seeking to provide default service must be able to establish that they can fulfill the technical and regulatory requirements of the SMA, including demonstration that there is no impediment to becoming a Load Serving Entity (LSE) under PJM's rules. Id.

The Commission should carefully examine the Company's proposed procedures to ensure that potential suppliers meet all technical and regulatory requirements as necessary under PJM's rules.

### 4. AEPS Compliance

PECO avers that it will continue to satisfy its AEPS Act obligations by requiring each full requirements default service supplier to transfer Tier I and Tier II alternative energy credits (AECs) to PECO. Petition at ¶ 27. The AEC credits will correspond to PECO's obligations associated with the amount of default service load served by that supplier. Petition at ¶ 27. In addition, PECO proposes to continue to allocate AECs obtained through its AEC procurements to suppliers in accordance with the peak load of each customer class and the percentage of load served by each supplier. Petition at ¶ 27. To that end, PECO has proposed two annual solicitations in the first two years of DSP V for the delivery of 16,000 Solar AECs. Petition at ¶ 28. PECO proposes that 8,000 of the Solar AECs procured through this process be generated in the PECO service territory. Petition at ¶ 29.

The OCA submits that this methodology should be examined to determine whether it produces the lowest reasonable cost for alternative energy credits and whether it appropriately supports the development of the alternative requirements needed under the AEPS Act.

B. Contingency Plans

PECO will assume responsibility of the LSE for any tranches that are unfilled in default supply procurement or the event that PECO experiences a supplier default under the SMA. Petition at ¶ 32. For those tranches, PECO avers that it will procure default service supply from PJM-administered markets for energy, capacity and ancillary services. Id. PECO proposes that if the default occurs within a reasonable time before a scheduled procurement, the unfilled tranches will be included in PECO's next scheduled procurement. Id. Alternatively, PECO will file a plan with the Commission regarding alternative procurement options and a request for approval of the plan on an expedited basis. Id. With regard to the Company's proposed Solar

AEC procurement, any shortfall will be the obligation of the full requirements contract wholesale suppliers. Petition at ¶ 33.

The OCA submits that the Commission should carefully review the Company's contingency plans for effectiveness and efficiency to meet the requirements of Act 129. In addition, the OCA will review the contingency plans to ensure that the risks to winning full requirements bidders are not overly burdensome.

C. Rate Design and Cost Recovery

PECO proposes to maintain the same rate design approved in DSP IV for residential customers. Petition at ¶ 36. PECO requests full and current cost recovery of all DSP V costs incurred. Petition at ¶ 37.

The OCA submits PECO's residential rate design should be examined to help promote price stability, both through the projected cost of energy and the reconciliation of the over/undercollection component of rates. Further, any cost recovery permitted should be examined to ensure that it is consistent with the Public Utility Code, applicable regulations and Commission Orders, and sound ratemaking principles.

D. Time of Use Rate Option

PECO is proposing a Time of Use Rate option for residential and small commercial customers. Petition at ¶¶ 40-48. Generation supply for customer choosing this service will be supplied through the same full requirements contracts procured for standard default service. Petition at ¶ 43. PECO proposes to set TOU rates through pricing multipliers that will establish a ratio of prices at peak, off-peak, and super-off peak periods. Petition at ¶ 42. The Company proposes to calculate the TOU rates quarterly, and to include any under/over recoveries in the total default service reconciliation calculations. Petition at ¶ 45.



The OCA will review the overall design of the TOU program. This review will include the time periods established for on-peak and off-peak periods, the utilization of pricing ratios, and customer education efforts. In addition, the OCA intends to review the reconciliation proposal to ensure that costs of the program are recovered in a reasonable manner.

E. Retail Market Enhancements

PECO proposes to continue the Standard Offer Program (SOP) in DSP V. Petition at ¶ 55. Currently in DSP IV, SOP costs are recovered through an EGS participant fee of \$30 per enrolled customers, with any remaining costs recovered: (1) fifty percent (50%) from the EGSs through a 0.2% Purchase of Receivables discount and (2) fifty percent (50%) from residential and small commercial default service customers via the GSA. Petition at ¶ 55. PECO proposes to continue this cost recovery methodology. Id. The OCA submits that the Company's proposal to continue the SOP beyond May 31, 2021 should be reviewed to ensure that the program maintains reasonable and appropriate consumer protections.

In addition, PECO proposes to provide a CAP shopping program plan that would allow CAP customers to receive generation from Electric Generation Suppliers (EGSs) at prices at or below the PECO price to compare (PTC). Petition at ¶59. The OCA will review the proposed CAP shopping program to ensure that appropriate consumer protections are in place for CAP customers, and that the costs of any CAP shopping program are reasonable.

E. Procedural Issues

PECO provides a proposed procedural schedule in its Petition. Petition at ¶ 69. The OCA will work with all parties to develop a mutually agreeable procedural schedule.

### III. CONCLUSION

WHEREFORE, the Office of Consumer Advocate respectfully requests that this matter be set for hearings. Hearings are necessary to ensure that the default service rates that will be charged starting June 1, 2021 are just and reasonable and otherwise consistent with Pennsylvania law.

Respectfully Submitted,

/s/ Aron J. Beatty

Aron J. Beatty  
Senior Assistant Consumer Advocate  
PA Attorney I.D. # 86625  
E-Mail: [ABeatty@paoca.org](mailto:ABeatty@paoca.org)

David T. Evrard  
Assistant Consumer Advocate  
PA Attorney I.D. # 33870  
E-Mail: [DEvrard@paoca.org](mailto:DEvrard@paoca.org)

Counsel for:  
Tanya J. McCloskey  
Acting Consumer Advocate

Office of Consumer Advocate  
5th Floor, Forum Place  
555 Walnut Street  
Harrisburg, PA 17101-1923  
Telephone: (717) 783-5048  
Facsimile: (717) 783-7152

DATE: April 3, 2020  
00285995.docx