


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

May 4, 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:

Attached for electronic filing please find the Office of Consumer Advocate's Prehearing Memorandum in the above-referenced proceeding.

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

Respectfully submitted,

/s/ David T. Evrard
David T. Evrard
Assistant Consumer Advocate
PA Attorney I.D. # 33870
E-Mail: DEvrard@paoca.org

Enclosures:

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

*287715

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 Prehearing Memorandum, 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 4th day of May 2020.

SERVICE BY E-MAIL ONLY

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

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

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

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

Erin K. Fure, Esquire
Daniel G. Asmus, Esquire
Office of Small Business Advocate
555 Walnut Street
1st Floor, Forum Place
Harrisburg, PA 17101-1923

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

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

John F. Lushis, Jr., Esquire
Norris McLaughlin, P.A.
515 W. Hamilton Street
Suite 502
Allentown, PA 1810

Robert W. Ballenger, Esquire
Josie B. H. Pickens, Esquire
Joline R. Price, Esquire
Community Legal Services, Inc.
1424 Chestnut Street
Philadelphia, PA 19102

Gregory L. Peterson, Esquire
Phillips Lytle LLP
201 West Third Street
Suite 205
Jamestown, NY 14701-4907

Joseph Otis Minott, Esquire
Ernest Logan Welde, Esquire
Clean Air Council
135 S. 19th Street
Suite 300
Philadelphia, Pennsylvania 19103

Brian Kalcic
Excel Consulting
225 S. Meramec Avenue
Suite 720 T
St. Louis, MO 63105

Karen O. Moury, Esquire
Deanne M O'Dell, Esquire
Eckert Seamans Cherin & Mellott, LLC
213 Market Street, 8th Floor
P.O. Box 1248
Harrisburg, PA 17101

/s/ David T. Evrard

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

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

Counsel for:
Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923
Phone: (717) 783-5048
Fax: (717) 783-7152
Dated: May 4, 2020
*286345

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of PECO Energy Company for	:	
Approval of its Default Service Program	:	
For the Period from June 1, 2021 through	:	P-2020-3019290
May 31, 2025	:	

PREHEARING MEMORANDUM
OF THE
OFFICE OF CONSUMER ADVOCATE

Pursuant to Section 333 of the Public Utility Code, 66 Pa. C.S. § 333, and in response to the April 21, 2020 Prehearing Conference Order issued in the above-captioned matter, the Office of Consumer Advocate (OCA) provides the following information:

I. INTRODUCTION

On March 13, 2020, PECO Energy Company (PECO or the Company) filed its Petition (Petition) with the Pennsylvania Public Utility Commission (Commission) seeking approval of its default service program (DSP V or Plan) for the period June 1, 2021 through May 31, 2025.

The Petition was assigned to the Office of Administrative Law Judge and was further assigned to Administrative Law Judge Eranda Vero for investigation and the scheduling of hearings. On April 21, 2020 ALJ Vero issued a Prehearing Conference Order indicating that an Initial Prehearing Conference was scheduled for May 5, 2020. This Order also detailed the parties' obligations with respect to the Prehearing Conference.

On April 3, 2020, the OCA filed a Notice of Intervention and Public Statement and an Answer in response to the Company's Petition. The OCA submits this Prehearing Memorandum in accord with the Prehearing Conference Order in this matter.

II. ISSUES AND SUB-ISSUES

Based upon a preliminary analysis of the Company's Petition, the OCA has compiled a list of issues that it anticipates will be included in its investigation of DSP V. It is anticipated that other issues could arise and may be pursued as discovery proceeds.

The OCA has identified several issues that may require further review as follows:

- Procurement Classes, Program Term, and Supply Portfolio: The OCA will examine the Company's proposal to continue, 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. These purchases will account for approximately 99% of PECO's purchases. The remaining 1% will be procured through the PJM spot market. The OCA will examine the reasonableness of this procurement approach.
- Competitive Bid Solicitation Process and Independent Evaluator: The Company proposes to solicit bids for default service supply so as to avoid problems associated with procuring significant amounts of supply at a single point in time when prices may be the highest. PECO proposes to again use NERA as the independent third-party evaluator. 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 at any point in time during DSP V. The OCA will review the Company's proposal to ensure a competitive procurement process.
- Supplier Master Agreement: The OCA will review the Company's Supplier Master Agreement to ensure its compliance with the Public Utility Code and to ensure that it does no harm to default service customers or the retail competitive market.
- AEPS: The Company proposes to continue to satisfy its Alternative Energy Portfolio Standards Act, 73 P.S. § 1643.1 *et seq.* (AEPS or AEPS Act), obligations by requiring each full requirements default service supplier to transfer Tier I and Tier II alternative energy credits (AECs) to PECO. The AECs will correspond to PECO's obligations associated with the amount of default service load served by that supplier. 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. PECO also proposes to expand its long-term Solar AEC purchase program to increase the amount of annual Solar AECs procured from 8,000 to 16,000 through procurements conducted in 2021 and 2022. The term of these Solar AEC purchase agreements will be ten years. The long-term Solar AECs are expected to meet roughly 25% of PECO's solar AEC requirements for DSP V. PECO is also proposing to purchase up to half of each year's Solar AEC requirements from solar facilities in the PECO

service territory. The OCA will examine the Company's proposal to determine if it represents a cost-effective method of satisfying AEPS requirements.

- Rate Design: PECO proposes to maintain the same rate design approved in DSP IV for residential customers. PECO seeks full and current cost recovery of all DSP V costs incurred. DSP rates include both a generation component (the GSA) and a transmission component (the TSC). PECO will adjust DSP rates quarterly and reconcile over/undercollections semi-annually. The OCA will examine PECO's residential rate design to assure that it produces just and reasonable rates and continued compliance with the Public Utility Code.
- Time of Use Rate Options: In DSP V, PECO proposes to offer Time of Use (TOU) rate options to residential and small commercial customers. The TOU rates will differentiate prices across three periods – peak, off-peak and super off-peak. The timing of these periods will remain constant throughout the year. Pricing in each period will be based on multipliers designed to encourage shifting of usage from higher to lower cost periods. Customers will pay a discounted rate for off-peak usage and a higher rate for peak usage relative to the Company's standard DSP fixed rate. PECO will source both standard and TOU default service from the same supply portfolio. The OCA will examine PECO's TOU proposal to determine consistency with Commission and appellate court rulings.
- Standard Offer Referral Program: The Company proposes to continue its Standard Offer Program (SOP) from DSP IV. The SOP is a retail market enhancement, in which certain customers that call PECO are offered the opportunity to hear about a special offer to switch to a competitive electric generation supplier (EGS) for generation service. EGSs that participate in this program must meet certain program requirements, including offering a twelve-month fixed price that is seven percent (7%) below PECO's default service rate at the time of the offer. The Company further proposes to recover SOP costs through an EGS participant fee of \$30 per enrolled customer, with any remaining costs recovered in the following manner: (1) fifty percent (50%) from EGSs through a 0.2% Purchase of Receivables discount; and (2) fifty percent (50%) from residential and small commercial default service via the Generation Supply Adjustment rider (GSA). The OCA will examine the SOP and the costs that may arise from the continuation of the referral program to ensure that such a program is still reasonable, cost-justified, and that the costs are allocated appropriately.
- CAP Shopping: PECO proposes to initiate a plan under which residential customers on its Customer Assistance Program will be able to shop for their generation supply through Electric Generation Suppliers (EGS). EGSs will be able to enroll CAP customers subject to PECO's plan requirements. Those requirements provide that EGSs must agree to be a CAP Supplier. They must agree to charge CAP customers a rate that is at or below PECO's Price-To-Compare and may not impose early termination or cancellation fees. At the end of a contract period, an EGS must allow the customer to either renew the contract, switch to another CAP Supplier or return

to default service. PECO will implement a variety of customer education initiatives designed to help CAP customers understand their rights under the CAP Shopping Plan. The OCA will review the particulars of the CAP Shopping Plan to ensure that it meets Commission policy for providing shopping opportunities for CAP customers.

III. WITNESSES

The OCA's witnesses will present testimony in written form and may also attach various exhibits, documents, and explanatory information, which will assist in the presentation of the OCA's case. In order to expedite the resolution of this proceeding, the OCA requests that copies of all discovery requests, testimony and responses to discovery requests be electronically transmitted directly to the OCA's witnesses at the e-mail addresses below, as well as mailing a copy to counsel for the OCA.

Dr. Steven L. Estomin
Dr. Serhan Ogur
Exeter Associates, Inc.
Suite 300
10480 Little Patuxent Parkway
Columbia, MD 21044
E-mail: sogur@exeterassociates.com
sestomin@exeterassociates.com
Barbara Alexander
Consumer Affairs Consultant
83 Wedgewood Drive
Winthrop, ME 04364
E-mail: barbalex@ctel.net

The OCA specifically reserves the right to call additional witnesses, as necessary. As soon as the OCA has determined whether an additional witness or witnesses will be necessary for any portion of its case, the OCA will promptly notify Administrative Law Judge Vero and all parties of record.

IV. SERVICE ON OCA

The OCA will be represented in this case by Senior Assistant Consumer Advocate Aron J. Beatty and Assistant Consumer Advocate David T. Evrard. Two copies of all documents should be served on the OCA as follows:

David T. Evrard
Assistant Consumer Advocate
Office of Consumer Advocate
555 Walnut St., 5th Floor, Forum Place
Harrisburg, PA 17101-1923
Telephone: (717) 783-5048
Fax: (717) 783-7152
Email: devrard@paoca.org

As a courtesy, the OCA requests that all electronic correspondence be additionally copied to Aron J. Beatty (abeatty@paoca.org) and Lauren Myers (lmyers@paoca.org).

V. DISCOVERY

Because the time period for discovery and preparation of testimony is limited, the OCA supports a shortened discovery response time in this proceeding, consistent with the modifications proposed by the Company and approved in numerous other proceedings before the Commission. The parties have agreed to the following modifications to the discovery regulations in this proceeding:

- A. Answers to written interrogatories be served in-hand within ten (10) calendar days of service of the interrogatories.
- B. Objections to interrogatories be communicated orally within three (3) days of service; unresolved objections be served to the ALJ in writing within five (5) days of service of interrogatories.

- C. Motions to dismiss objections and/or direct the answering of interrogatories be filed within three (3) days of service of written objections.
- D. Answers to motions to dismiss objections and/or direct the answering of interrogatories be filed within three (3) days of service of such motions.
- E. Responses to requests for document production, entry for inspection, or other purposes be served in-hand within ten (10) calendar days.
- F. Requests for admission be deemed admitted unless answered within ten (10) days or objected to within five (5) days of service
- G. When an interrogatory, request for production, request for admission or motion is served after 12:00 p.m. on a Friday or the day before a holiday, the appropriate response period is deemed to start on the next business day.
- H. Interrogatories, requests for production and requests for admissions that are objected to but which are not made the subject of a motion to compel will be deemed withdrawn.
- I. Pursuant to 52 Pa. Code §5.341(b), neither discovery requests nor responses thereto are to be served on the Commission or the Administrative Law Judge, although a certificate of service may be filed with the Commission's Secretary.
- J. Discovery requests, motions to compel and responses are to be served electronically and will only be served on paper upon request.

VI. PROPOSED SCHEDULE

The OCA agrees to the schedule proposed by the Company, which is as follows:

June 16, 2020

Other Parties' Direct Testimony Due

July 9, 2020	Rebuttal Testimony Due
July 23, 2020	Surrebuttal Testimony Due
July 29-30, 2020	Oral Rejoinder and Hearings
August 20, 2020	Initial Briefs
September 8, 2020	Reply Briefs
October 20, 2020	Recommended Decision
December 17, 2020	Commission Order

VII. PUBLIC INPUT HEARINGS

The OCA has received a request for a public input hearing from the group POWER, an interfaith group whose self-stated purpose is to “build racial and economic justice on a livable planet.” The group is interested in seeing PECO make an expeditious and substantial move toward local solar energy as part of this proceeding. The OCA supports telephonic “Smart Public Input Hearings” to allow PECO ratepayers an opportunity to participate in this proceeding without requiring formal Interventions. The OCA notes that public input hearings have previously been held in Default Service Proceedings.

VIII. SETTLEMENT

The OCA will participate fully in settlement negotiations if and when they arise.

Respectfully Submitted,

/s/ David T. Evrard

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

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

Counsel for:
Tanya J. McCloskey
Acting Consumer Advocate

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

Dated: May 4, 2020

287691