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May 4, 2020

VIA eFILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
P.O. Box 3265
Harrisburg, PA 17105-3265

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

Dear Secretary Chiavetta:

Enclosed please find **PECO Energy Company's Prehearing Conference Memorandum** in the above-captioned matter.

If you have any questions regarding this filing, please do not hesitate to contact me at 215.841.5974.

Very truly yours,



W. Craig Williams

Enclosures

c: Per Certificate of Service (w/encls.)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PETITION OF PECO ENERGY :
COMPANY FOR APPROVAL OF ITS :
DEFAULT SERVICE PROGRAM FOR : **Docket No. P-2020-3019290**
THE PERIOD FROM JUNE 1, 2021 :
THROUGH MAY 31, 2025 :

CERTIFICATE OF SERVICE

I hereby certify and affirm that I have this day served a copy of **PECO Energy Company's Prehearing Conference Memorandum** on the following persons in the matter specified in accordance with the requirements of 52 Pa. Code § 1.54:

VIA ELECTRONIC MAIL

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Dated: May 4, 2020

Counsel for PECO Energy Company

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**PETITION OF PECO ENERGY :
COMPANY FOR APPROVAL OF ITS :
DEFAULT SERVICE PROGRAM FOR : DOCKET NO. P-2020-3019290
THE PERIOD FROM JUNE 1, 2021 :
THROUGH MAY 31, 2025 :**

**PREHEARING CONFERENCE MEMORANDUM OF
PECO ENERGY COMPANY**

TO ADMINISTRATIVE LAW JUDGE ERANDA VERO:

Pursuant to the April 21, 2020 Prehearing Order issued by Administrative Law Judge Eranda Vero (the “ALJ”) and the Pennsylvania Public Utility Commission’s (“Commission”) regulations at 52 Pa. Code § 5.222(d), PECO Energy Company (“PECO” or the “Company”) hereby submits its Prehearing Conference Memorandum in the above-captioned proceeding.

I. PROCEDURAL HISTORY

On March 13, 2020, PECO filed the above-captioned petition (the “Petition”) requesting that the Commission approve its fifth Default Service Program (“DSP V”) in accordance with its responsibilities as the default service provider for its certificated service territory for the period from June 1, 2021 through May 31, 2025, following the expiration of its current default service program (“DSP IV”).¹ PECO requests that the Commission: (1) approve DSP V, including its procurement plan, implementation plan, contingency plan, and associated procurement documents and agreements for default service supply for all PECO customers who do not take

¹ See *Petition of PECO Energy Co. for Approval of Its Default Serv. Program for the Period from June 1, 2017 through May 31, 2021*, Docket No. P-2016-2534980 (Order entered Dec. 8, 2016).

generation service from an alternative electric generation supplier (“EGS”) or who contract for energy with an EGS which is not delivered; (2) approve PECO’s proposed default service rate design, including PECO’s proposed time-of-use (“TOU”) rate options, and affirm PECO’s right to recover all of its default service costs in accordance with 66 Pa.C.S. § 2807(e)(3.9); (3) grant a waiver of the rate design provisions of the Commission’s regulations at 52 Pa. Code § 54.187, to the extent necessary; (4) find that DSP V includes prudent steps necessary to negotiate favorable generation supply contracts; (5) find that DSP V includes prudent steps necessary to obtain least-cost generation supply on a long-term, short-term and spot market basis; (6) approve NERA Economic Consulting, Inc. (“NERA”) to continue as the independent third-party evaluator for PECO’s default supply procurements; (7) approve the Company’s proposal to solicit new ten-year contracts for Solar Alternative Energy Credits (“Solar AECs”) to satisfy the requirements of Pennsylvania’s Electricity Generation Customer Choice and Competition Act (the “Competition Act”),² as amended by Act 129 of 2008 (“Act 129”), and Alternative Energy Portfolio Standards Act, 73 P.S. § 1643.1 *et seq.* (“AEPS” or “AEPS Act”); (8) approve continuation of PECO’s existing EGS Standard Offer Program (“Standard Offer Program” or “SOP”), including the associated cost recovery mechanism approved in PECO’s prior default service proceedings; (9) approve PECO’s proposed plan to facilitate shopping by low income customers enrolled in the Company’s Customer Assistance Program (“CAP”) (the “CAP Shopping Plan” or “Plan”); (10) find that neither PECO nor its affiliates have withheld from the market any generation supply in a manner that violates federal law; and (11) approve PECO’s proposed revised uniform Supply Master Agreement (“SMA”) and both forms of the proposed Solar AEC Purchase and Sale Agreement as affiliated interest agreements under 66 Pa.C.S. § 2102.

² 66 Pa.C.S. §§ 2801-2812.

This is PECO’s fifth proposed program for default service under the Competition Act. Under DSP IV, PECO continued to meet its default service obligations while fostering competition in retail electric markets by implementing hourly-priced default service for PECO’s former “medium” commercial customers (100 kW to 500 kW peak demand), modifying cost recovery mechanisms, and continuing certain retail market enhancements. In DSP V, PECO is proposing to continue the existing and successful products and programs approved by the Commission in DSP IV. In accordance with the Competition Act, the Commission’s Default Service Regulations, and the Default Service Policy Statement, DSP V is designed to enable PECO to obtain a “prudent mix” of procurement contracts and thereby ensure that default service customers have access to an adequate and reliable supply of generation at least cost over time.

The Petition was served on the Office of Consumer Advocate (“OCA”), the Office of Small Business Advocate (“OSBA”), the Commission’s Bureau of Investigation & Enforcement (“I&E”), PJM Interconnection, L.L.C. (“PJM”), the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (“CAUSE-PA”), the Philadelphia Area Industrial Energy Users Group (“PAIEUG”) and the Retail Energy Supply Association (“RESA”), as well as all of the EGSs registered in PECO’s certificated service territory. As of this date, Answers to PECO’s Petition have been submitted by the OSBA on April 2, 2020 and the OCA on April 3, 2020. A Notice of Appearance was filed by the OSBA on April 2, 2020.

In addition, the following parties filed Petitions to Intervene:

CAUSE-PA	April 1, 2020
Philadelphia Area Industrial Energy Users Group (“PAIEUG”)	April 1, 2020
Tenant Union Representative Network and Action Alliance of Senior Citizens of Greater Philadelphia (“TURN et al.”)	April 10, 2020

Calpine Retail Holdings, LLC (“Calpine”)	April 14, 2020
StateWise Energy Pennsylvania LLC and SFE Energy Pennsylvania, Inc.	April 30, 2020
Electric Supplier Coalition ³	May 1, 2020
Environmental Stakeholders ⁴	May 1, 2020

II. STATEMENT OF ISSUES

The issue before the Commission is whether DSP V is in the public interest and is consistent with the Competition Act, as amended by Act 129, the Commission’s default service regulations at 52 Pa. Code §§ 54.181-54.189 (“Regulations”), the Commission’s Policy Statement on Default Service at 52 Pa. Code §§ 69.1801-1817 (“Policy Statement”), and the Commission’s Orders in its *Investigation of Pennsylvania’s Retail Electricity Market* at Docket I-2011-2237952.⁵ On February 26, 2019, the Commission entered an Order at Docket No. M-2019-3007101 to initiate an investigation of potential opportunities to better reflect wholesale cost causation in default service rates and incentivize customer behavior to lower peak demand. In that proceeding, the Commission subsequently requested that EDCs address six topics in upcoming default service program (“DSP”) filings.⁶ As described in PECO Exhibit JJM-2, the Company has addressed those topics in its direct testimony in this proceeding.

³ NRG Energy, Inc., Direct Energy Services LLC, Interstate Gas Supply Inc., d/b/a IGS Energy, Vistra Energy Corp., Shipley Choice LLC, ENGIE Resources LLC and WGL Energy Services, Inc.

⁴ Clean Air Council, Sierra Club/PA Chapter and Philadelphia Solar Energy Association.

⁵ *See Implementation of Act 129 of October 15, 2008: Default Service and Retail Electric Markets*, Docket No. L-2009-2095604 (Final Rulemaking Order entered October 4, 2011); *Proposed Policy Statement Regarding Default Service and Retail Electric Markets*, Docket No. M-2009-2140580 (Final Policy Statement entered on September 22, 2011); *Investigation of Pennsylvania’s Retail Elec. Mkt.: Intermediate Work Plan*, Docket No. I-2011-2237952 (Final Order entered March 2, 2012); *Investigation of Pennsylvania’s Retail Elec. Mkt.: End State of Default Serv.*, Docket No. I-2011-2237952 (Order entered February 15, 2013) (“*End State Order*”).

⁶ *Investigation into Default Serv. and PJM Interconnection, LLC Settlement Reforms*, Docket No. M-2019-3007101 (Secretarial Letter issued Jan. 23, 2020) (“January 2020 Secretarial Letter”).

PECO is proposing three principal changes to its default service program and the products previously approved by the Commission in DSP IV. First, PECO is proposing to procure new Solar AEC contracts to replace PECO's existing ten-year Solar AEC contracts previously approved by the Commission that will have expired by the end of DSP IV. Second, PECO is introducing new TOU default service rate options for eligible customers in PECO's Residential and Small Commercial procurement classes (the "TOU Rates") to comply with PECO's obligation under Act 129 to offer TOU rates to all default service customers with smart meters.⁷ Finally, PECO is proposing to permit CAP customers to shop for generation service in accordance with the Commission's proposed Policy Statement on Electric Customer Assistance Program Participant Shopping.⁸ The principal components of DSP V are described below.

A. Default Service Procurement Class And Supply Portfolio Design

Under DSP IV, PECO conducts competitive procurements of wholesale power and associated services for three different default service customer classes: (i) Residential customers, (ii) Small Commercial customers with up to and including 100 kW of annual peak demand and lighting customers; and (iii) Consolidated Large C&I customers whose annual peak demand is greater than 100 kW. For DSP V, PECO is proposing to maintain the same procurement groups, and thereby continue to reflect the nature of the load requirements of each customer class and other factors, including the evolution of competitive markets and rate

⁷ 66 Pa.C.S. §§ 2807(f)(5). The hourly-priced default service rate for the Consolidated Large Commercial and Industrial ("C&I") Class already meets Act 129 requirements.

⁸ *Elec. Distribution Company Default Service Plans – Customer Assistance Program Shopping*, Docket No. M-2018-300658 (Proposed Policy Statement Order entered Feb. 28, 2019) ("*Proposed Policy Statement Order*"). In the January 2020 Secretarial Letter (p. 9), the PUC acknowledged that its proposed CAP shopping policy statement was "unlikely to be final and effective in time for some upcoming DSP proceedings." The Commission therefore directed all EDCs to consider the Commission's prior guidance in the *Proposed Policy Statement Order* and recent decisions in previous default service proceedings in developing CAP proposals for upcoming DSP filings. *Id.*, pp. 9-10.

stability. As in its prior default service programs, PECO is requesting a waiver, to the extent necessary, from the Commission’s regulations (52 Pa. Code § 54.187(g)) to use the proposed procurement classes.

As described in detail in the Petition, PECO is proposing to maintain the basic procurement strategy established in prior default service programs, which utilizes short time periods between the solicitation and delivery of supply products, as well as fixed-price full requirements, load-following products. The following table summarizes the proposed procurement plan for each customer class:

Residential	Small Commercial	Consolidated Large C&I
<ul style="list-style-type: none"> • Approximately 99% of the load is supplied by a mix of products in the following proportions: <ul style="list-style-type: none"> ○ Approximately 38% 1-year fixed-price full requirements (“FPFR”) products with delivery periods that overlap on a semi-annual basis ○ Approximately 61% 2-year FPFR products with delivery periods that overlap on a semi-annual basis • The other approximately 1% of the load will be supplied by spot purchases • All products are procured approximately two months before delivery of the product begins 	<ul style="list-style-type: none"> • 50% 1-year FPFR products • 50% 2-year FPFR products • Delivery periods overlap on a semi-annual basis • All products are procured approximately two months before delivery of the product begins 	<ul style="list-style-type: none"> • 100% spot-priced full requirements products, with 1-year delivery periods • All products are procured approximately two months before delivery of the product begins

During PECO’s first two default service programs, load serving entities (“LSEs”), including EGSs, were responsible for transmission costs charged by PJM, including Generation Deactivation/Reliability Must Run (“RMR”) charges, Expansion Cost Recovery charges and Transmission Enhancement (a/k/a Regional Transmission Expansion Plan “RTEP”) charges. In PECO’s DSP III proceeding, the Commission concluded that certain PJM transmission-related

charges should be recovered from customers on a non-bypassable basis.⁹ Consistent with that finding, on June 1, 2015, PECO implemented a Non-Bypassable Transmission Charge to recover the following PJM charges from all distribution customers in PECO's service territory:

Generation Deactivation/RMR charges (PJM bill line 1930) set after December 4, 2014; RTEP charges (PJM bill line 1108); and Expansion Cost Recovery charges (PJM bill line 1730).

During DSP IV, PECO will continue to be responsible for and will recover Network Integration Transmission Service and Non-Firm Point-to-Point Transmission costs through its unbundled, bypassable Transmission Service Charge ("TSC").

B. Competitive Bid Solicitation Process And Contingency Plans

PECO proposes to procure its full-requirements default service products through a fair, non-discriminatory, and competitive request for proposals ("RFP") process conducted by an independent third-party evaluator. PECO also proposes that NERA serve as the independent third-party evaluator for PECO's default supply solicitations, as it has done in the Company's prior default service programs. Finally, PECO proposes contingency plans to cover supply deficiencies resulting from either a supplier default or the receipt of insufficient bids to fill its competitive solicitations.

C. Supplier Master Agreement

Each seller of full requirements default service supply will deliver a percentage of PECO's default service load pursuant to the terms of the SMA. As envisioned by the Commission in the *End State Order*, PECO is proposing to continue to use the uniform SMA developed through the Office of Competitive Market Oversight ("OCMO") SMA stakeholder

⁹ See *Petition of PECO Energy Co. for Approval of Its Default Serv. Program for the Period from June 1, 2015 through May 31, 2017*, Docket No. P-2014-2409362 (Order entered Dec. 4, 2014), p. 46.

process, which has functioned well during DSP IV, with one modification. Specifically, PECO is proposing to require each wholesale supplier to submit the information required in PECO's annual report to the PUC on default service¹⁰ to the Company on the types of energy sources used to generate the energy supplied under the SMA.

D. Alternative Energy Portfolio Standards Act Requirements

PECO proposes to continue to satisfy most of its requirements under the AEPS Act, as amended by Act 40 of 2017 ("Act 40"), by requiring each full-requirements default service supplier to transfer Tier I and Tier II alternative energy credits ("AECs") to PECO corresponding to PECO's AEPS obligations associated with the amount of default service load served by that supplier. PECO proposes to continue to allocate AECs obtained through separate AEPS procurements approved by the Commission towards suppliers' AEPS obligations under the SMA in accordance with the percentage of load served by each supplier.

As explained in the Petition, PECO has been purchasing 8,000 Solar Tier I AECs annually under various agreements that will expire between May 31, 2020 and May 31, 2021. In light of PECO's prior successful Solar AEC procurement in 2009 and potential future supply shortfalls related to Act 40's new requirements for in-state solar generation, PECO is proposing two annual solicitations in the first two years of the DSP V term for delivery of a total of 16,000 Solar AECs (i.e., 8,000 Solar AECs in each solicitation in 2021 and 2022). This amount of Solar AECs is expected to meet approximately 25% of PECO's increased solar AEPS requirements under DSP V. PECO is also proposing to procure up to half of the Solar AECs solicited in 2021 and 2022 from solar generating facilities located within its service territory, where several

¹⁰ 52 Pa. Code § 54.39; *see also id.* at § 54.6 (requiring default service providers to file the annual licensing report required by Section 54.39 of the Commission's EGS licensing regulations that provides information on default supply generation sources).

municipalities (including the City of Philadelphia) have established renewable energy goals.

PECO is proposing to procure the Solar AECs through a two-part, competitive bid process conducted by a third-party RFP monitor in which bidders are first qualified and then permitted to submit a bid with an offer to deliver a specific amount of Solar AECs annually, subject to a minimum bid amount (200 AECs per year). The first stage of the RFP will consist of a competitive procurement where the winning bidders will be determined by lowest Solar AEC prices offered. The second stage will be a Standard Offer to Purchase Solar AECs at a competitive price determined by the first stage RFP, with the requirement that the Solar AECs from stage two bidders come from solar generation resources located in the PECO service territory. PECO also proposes a contingency plan if PECO's proposed 2021 procurement for Solar AECs is unsuccessful or if there is insufficient participant interest.

E. Rate Design And Tariff Changes

PECO proposes to recover default service costs through its existing Generation Supply Adjustment ("GSA") and TSC mechanisms. In DSP V, PECO proposes to maintain the same rate design approved by the Commission in DSP IV with the addition of new, optional TOU Rates for the Residential and Small Commercial Classes consistent with Commission guidance on TOU rate design.¹¹

¹¹ In 2014, PECO offered a TOU generation rate through a PUC-approved one-year pilot program. Since the conclusion of the pilot, the scope of an EDC's obligation to offer TOU rates to default service customers was the subject of litigation before the Commission and Commonwealth Court. *See Petition of PPL Elec. Utils. Corp. for Approval of a New Pilot Time-of-Use Program*, Docket No. P-2013-2389572 (Order entered Sept. 11, 2014) (holding that Act 129 did not require PPL Electric Utilities Corp. ("PPL") to offer TOU rates directly to customer-generators); *Dauphin Cty. Indus. Dev. Auth. v. Pa. P.U.C.*, 123 A.3d 1124, 1136 (Pa. Cmwlth. 2015) ("DCIDA") (holding that Act 129 does not authorize default service providers to delegate the obligation to offer TOU rates to customers with smart meters to EGSs); *Petition of PPL Elec. Utils. Corp. for Approval of a New Pilot Time-of-Use Program*, Docket Nos. P-2013-2389572 and M-2016-2578051 (Secretarial Letter issued Apr. 6, 2017) ("April 2017 Secretarial Letter") (proposing a TOU design for PPL in accordance with the DCIDA decision and noting that the proposed TOU design "may provide future guidance to all EDCs" for incorporation into their own TOU proposals in their individual default service proceedings).

The TOU Rates will differentiate prices across three periods (peak, off-peak and super off-peak) that are constant throughout the year based on price multipliers designed to motivate shifting of usage from the higher-cost peak period to lower-cost off-peak periods. Under the Company's proposed rate design, eligible default service customers will pay a discounted rate for off-peak usage and a higher rate for peak usage relative to PECO's standard fixed-price GSA.

PECO defined the proposed peak period as 2 p.m. to 6 p.m. on non-holiday weekdays based on PJM's PECO zonal load data and energy prices over a five-year historic period (2014-2018). Consistent with the January 2020 Secretarial Letter, PECO's proposed TOU Rates include a super off-peak pricing period from 12 a.m. to 6 a.m. every day to encourage electric vehicle charging during overnight low-priced energy hours based on PECO's system load patterns. All other hours of the year are included in the off-peak TOU pricing period.

PECO is also proposing TOU pricing multipliers that will remain constant during the DSP V term. These multipliers reflect the ratios calculated from average PJM PECO zone spot market prices as well as the cost of capacity during peak and off-peak hours. PECO will calculate the TOU Rates on a quarterly basis, synchronized with the GSA adjustment periods for the Residential and Small Commercial Classes, using the methodology described by PECO witness Joseph A. Bisti in Statement No. 2.

PECO proposes to source both the standard and TOU default service for residential and small commercial customers from the same supply portfolio for each of those procurement classes. TOU customer kWh sales and costs will be included in the semi-annual reconciliation of GSA costs and revenues for the entire procurement class (i.e., Residential or Small Commercial). This approach will help mitigate potential large swings in GSA over/undercollections that could arise if customers switch between PECO's standard default service rate and TOU default service

rate.

In addition to the new TOU Rates, PECO is proposing limited tariff changes relating to PECO's proposed CAP Shopping Plan and the recovery of costs incurred by the Company to implement the TOU Rates.

F. Retail Market Enhancements

During DSP II, DSP III and DSP IV, PECO implemented a variety of programs to support EGSs and expand retail choice. These programs include PECO's EGS purchase of receivables ("POR") program, the Company's Standard Offer Program, enhanced customer account number access for EGSs, and accelerated (three-day) switching.

Standard Offer Program. PECO proposes to continue offering the Standard Offer Program from June 1, 2021 to May 31, 2025. Consistent with PECO's existing tariff, the Company further proposes to continue to recover Standard Offer Program costs through an EGS participant fee of \$30 per enrolled customer, with any remaining costs recovered in the following manner: (1) fifty percent from EGSs through a POR discount; and (2) fifty percent from residential and small commercial default service customers through the GSA.

CAP Shopping Plan. PECO's CAP customers are not currently eligible to purchase electric generation supply from an EGS. In accordance with the Commission's direction in its *Proposed Policy Statement Order*,¹² PECO's Plan will facilitate shopping by CAP customers during DSP V. EGSs who choose to serve CAP customers must submit a notice of intent to

¹² The CAP shopping requirements outlined in the *Proposed Policy Statement Order* (pp. 5, 9-10) include: (1) a CAP shopping product rate at or below the EDC's Price-to-Compare ("PTC") for the duration of the contract; (2) a prohibition in EGS-CAP customer contracts against fees unrelated to the provision of electric generation service, including early termination and cancellation fees; and (3) the following options for CAP customers upon expiration of the current contract period: enter into another contract with their existing EGS with the same CAP protections, switch to another supplier offering a contract with the same CAP protections, or return to default service.

participate or discontinue participation as a CAP supplier (“CAP Notice”). Participating EGSs must charge CAP customers a rate for generation service that is at or below the PECO PTC for residential customers. EGSs serving CAP customers also may not enter into contracts that impose early cancellation and termination fees or other fees unrelated to generation service. Finally, EGSs serving CAP customers must use PECO’s “bill-ready” EDC consolidated billing for all shopping CAP customers. EGSs who submit a CAP notice must agree to provide generation supply service to CAP customers subject to the foregoing conditions and other requirements set forth in the Plan.

As part of the Plan, the Company will implement a variety of customer education initiatives focused on the CAP rate protections that must be included in CAP customer-EGS contracts, the impact of shopping on CAP benefits, and tools to help CAP customers understand and manage their energy bills. Costs associated with customer education initiatives (estimated at \$500,000) will continue to be recovered from all residential customers through the Company’s existing Customer Education Charge approved by the Commission in Docket No. P-2011-2279773. PECO is proposing to recover all remaining Plan expenditures totaling approximately \$0.7 million in a subsequent base rate case.

Considering the projected expense and outreach to CAP customers, PECO proposes to begin the one-year process to implement the Plan after PUC approval and following receipt of CAP Notices from at least five EGSs. While CAP Notices are not binding, the receipt of at least five CAP Notices will ensure that there is verifiable EGS interest in serving CAP customers in PECO’s service territory prior to expenditures to create the program.

G. Affiliate Relations

PECO requests that the Commission approve the revised SMA and agreements associated

with the Company's proposed Solar AEC RFP as affiliated interest agreements as required under 66 Pa.C.S. §§ 2102 and 2807(e)(3.1). The Commission's Regulations and Policy Statement permit affiliates of default service suppliers to participate in competitive procurements. Because PECO's affiliates may participate in the proposed procurements, advance approval of the revised SMA and Solar AEC agreements as affiliated interest agreements is appropriate.

III. WITNESSES

As previously explained, on March 13, 2020, PECO submitted its Petition along with the direct testimony and accompanying exhibits of the following witnesses:

- **John J. McCawley** – Mr. McCawley is PECO's Director of Energy Acquisition. Mr. McCawley's business address is 2301 Market Street, Philadelphia, PA, 19103, and his telephone number is (215) 841-4854. He provides an overview of PECO's DSP V and describes PECO's proposed default service procurement, implementation, and contingency plans for DSP V. Mr. McCawley also describes PECO's proposed Solar AEC procurements and agreements.
- **Joseph A. Bisti** – Mr. Bisti is a Principal Regulatory and Rates Specialist for PECO. Mr. Bisti's business address is 2301 Market Street, Philadelphia, PA, 19103, and his telephone number is (215) 841-5626. Mr. Bisti describes PECO's existing Generation Supply Adjustment ("GSA") and TSC, new TOU default service rate options, DSP V and CAP Shopping Plan cost recovery, and proposed changes to PECO's Electric Service Tariff.
- **Carol Reilly** – Ms. Reilly is PECO's Manager of Energy Acquisition Operations. Ms. Reilly's business address is 2301 Market Street, Philadelphia, PA, 19103, and her telephone number is (215) 841-4512. She describes the design of PECO's

CAP Shopping Plan, including Plan costs and proposed changes to PECO's Electric Generation Supplier Coordination Tariff ("Supplier Tariff"), and discusses continuation of PECO's Standard Offer Program.

- **Scott. G. Fisher** – Mr. Fisher is a Principal of the NorthBridge Group, an economic consulting firm. Mr. Fisher's business address is 30 Monument Square, Suite 105, Concord, MA, 01742, and his telephone number is (781) 266-2646. Mr. Fisher provides an expert evaluation of PECO's proposed procurement plan as well as a review of "lessons learned" under the Company's prior default service programs, which includes a quantitative analysis of the prices obtained in PECO's previous default service supply solicitations.

PECO may present additional witnesses in rebuttal of the direct testimony of other parties. However, such witnesses cannot be identified until other parties file their testimony and the issues raised in that testimony have been evaluated.

IV. DISCOVERY

PECO will work with the other parties and the ALJ to develop a reasonable schedule for ongoing discovery. In addition, PECO proposes that the ALJ approve the Protective Order attached hereto as Appendix "A," which is similar to the Protective Order entered in PECO's last base rate proceeding at Docket No. R-2018-3000164. PECO also proposes modifications to the Commission's discovery regulations, as shown in Appendix "B." The proposed discovery modifications are substantially similar to modifications approved in PECO's DSP IV proceeding. PECO has also proposed service modifications to account for the working arrangements of the parties during the pandemic. PECO circulated the foregoing Protective Order and discovery modifications with the parties and has received no objections.

V. SERVICE LIST

Pursuant to 52 Pa. Code § 1.55, PECO hereby designates the following individual for the service list in this proceeding:

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Parties are requested to also serve documents on the following attorneys as a courtesy:

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In accordance with ALJ Vero's direction, PECO will serve all documents in this proceeding electronically until further notice in light of the Governor's Emergency Order with respect to the COVID-19 pandemic.

VI. PROPOSED SCHEDULE

PECO will cooperate with the ALJ and other parties in order to facilitate the orderly conduct and disposition of this proceeding. To that end, the Company proposed a schedule in its Petition, for this proceeding, but has revised that schedule in light of the April 20, 2020 Prehearing Conference Notice and subsequent discussions with the parties. After consultation with and agreement of the parties, PECO offers the following revised schedule:

March 13, 2020	Petition Filing
May 5, 2020	Prehearing Conference
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

All proposed dates for submission of testimony and briefs are for “in-hand” delivery, which may be satisfied by an e-mail of the relevant documents.

VI. POSSIBILITY OF SETTLEMENT

PECO intends to engage in settlement discussions with the other parties in this proceeding in order to facilitate an effective and timely implementation of DSP V.

VII. CONCLUSION

WHEREFORE, PECO Energy Company respectfully submits this Prehearing Conference Memorandum.

Respectfully submitted,



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For PECO Energy Company

Dated: May 4, 2020

APPENDIX A

PROPOSED PROTECTIVE ORDER

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PETITION OF PECO ENERGY	:	
COMPANY FOR APPROVAL OF ITS	:	Docket No. P-2020-3019290
DEFAULT SERVICE PROGRAM FOR	:	
THE PERIOD FROM JUNE 1, 2021	:	
THROUGH MAY 31, 2025	:	

PROTECTIVE ORDER

IT IS ORDERED THAT:

1. This Protective Order is hereby GRANTED and shall establish procedures for the protection of all materials and information identified in Paragraphs 2 and 3 below, which are or will be filed with the Commission, produced in discovery, or otherwise presented during the above-captioned proceeding and all proceedings consolidated with it. All persons now or hereafter granted access to the materials and information identified in Paragraph 2 of this Protective Order shall use and disclose such information only in accordance with this Order.

2. The information subject to this Protective Order is all correspondence, documents, data, information, studies, methodologies and other materials, whether produced or reproduced or stored on paper, cards, tape, disk, film, electronic facsimile, magnetic or optical memory, computer storage devices or any other devices or media, including, but not limited to, electronic mail (e-mail), furnished in this proceeding that the producing party believes to be of a proprietary or confidential nature and are so designated by being stamped "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL" protected material. Such materials are referred to in this Order as "Proprietary Information." When a statement or exhibit is identified for the record, the portions thereof that constitute Proprietary Information shall be designated as such for the record.

3. For purposes of this Protective Order there are two categories of Proprietary Information: “CONFIDENTIAL” and “HIGHLY CONFIDENTIAL” protected material. A producing party may designate as “CONFIDENTIAL” those materials that are customarily treated by that party as sensitive or proprietary, that are not available to the public, and that, if generally disclosed, would subject that party or its clients to the risk of competitive disadvantage or other business injury. A producing party may designate as “HIGHLY CONFIDENTIAL” those materials that are of such a commercially sensitive nature, relative to the business interests of parties to this proceeding, or of such a private or personal nature, that the producing party determined that a heightened level of confidential protection with respect to those materials is appropriate. The parties shall endeavor to limit the information designated as “HIGHLY CONFIDENTIAL” protected material.

4. Subject to the terms of this Protective Order, Proprietary Information shall be provided to counsel for a party who meets the criteria of a “Reviewing Representative” as set forth below. Such counsel shall use or disclose the Proprietary Information only for purposes of preparing or presenting evidence, testimony, cross examination or argument in this proceeding. To the extent required for participation in this proceeding, such counsel may allow others to have access to Proprietary Information only in accordance with the conditions and limitations set forth in this Protective Order.

5. Information deemed “CONFIDENTIAL” shall be provided to a “Reviewing Representative.” For purposes of “CONFIDENTIAL” Proprietary Information, a “Reviewing Representative” is a person who has signed a Non-Disclosure Certificate and is:

- i. A statutory advocate, or an attorney for a statutory advocate pursuant to 52 Pa. Code § 1.8 or an attorney who has formally entered an appearance in this proceeding on behalf of a party;
- ii. An attorney, paralegal, or other employee associated for purposes of this case with an attorney described in subparagraph (i) above;
- iii. An expert or an employee of an expert retained by a party for the purpose of advising that party or testifying in this proceeding on behalf of that party; or
- iv. Employees or other representatives of a party to this proceeding who have significant responsibility for developing or presenting the party's positions in this docket.

6. Information deemed "HIGHLY CONFIDENTIAL" protected material shall be provided to a Reviewing Representative, provided, however that a Reviewing Representative, for purposes of "HIGHLY CONFIDENTIAL" protected material, is limited to a person who has signed a Non-Disclosure Certificate and is:

- i. A statutory advocate, or an attorney for a statutory advocate, pursuant to 52 Pa. Code § 1.8 or an attorney who has formally entered an appearance in this proceeding on behalf of a party;
- ii. An attorney, paralegal, or other employee associated for purposes of this case with an attorney described in subparagraph (i);
- iii. An outside expert or an employee of an outside expert retained by a party for the purposes of advising that party or testifying in this proceeding on behalf of that party; or
- iv. A person designated as a Reviewing Representative for purposes of HIGHLY CONFIDENTIAL protected material pursuant to paragraph 11.

Provided, further, that in accordance with the provisions of Sections 5.362 and 5.365(e) of the Commission's Rules of Practice and Procedure (52 Pa. Code §§ 5.362, 5.365(e)) any party may, by objection or motion, seek further protection with respect to HIGHLY CONFIDENTIAL protected material, including, but not limited to, total prohibition of disclosure or limitation of disclosure only to particular parties.

7. For purposes of this Protective Order, a Reviewing Representative may not be a “Restricted Person” absent agreement of the party producing the Proprietary Information pursuant to Paragraph 11. A “Restricted Person” shall mean: (a) an officer, director, stockholder, partner, or owner of any competitor of the parties or an employee of such an entity if the employee’s duties involve marketing or pricing of the competitor’s products or services or advising another person who has such duties; (b) an officer, director, stockholder, partner, or owner of any affiliate of a competitor of the parties (including any association of competitors of the parties) or an employee of such an entity if the employee’s duties involve marketing or pricing of the competitor's products or services or advising another person who has such duties; (c) an officer, director, stockholder, owner, agent (excluding any person under Paragraph 6.i or 6.ii), or employee of a competitor of a customer of the parties or of a competitor of a vendor of the parties if the Proprietary Information concerns a specific, identifiable customer or vendor of the parties; and (d) an officer, director, stockholder, owner or employee of an affiliate of a competitor of a customer of the parties if the Proprietary Information concerns a specific, identifiable customer of the parties; provided, however, that no expert shall be disqualified on account of being a stockholder, partner, or owner unless that expert’s interest in the business would provide a significant motive for violating the limitations of permissible use of the Proprietary Information. For purposes of this Protective Order, stocks, partnership or other ownership interests valued at more than \$10,000 or constituting more than a 1% interest in a business establish a significant motive for violation. A “Restricted Person” shall not include an expert for the Office of Small Business Advocate or Office of Consumer Advocate.

8. If an expert for a party, another member of the expert’s firm or the expert’s firm generally also serves as an expert for, or as a consultant or advisor to, a Restricted Person (other than an expert or expert firm retained by the Office of Small Business Advocate or Office of

Consumer Advocate), that expert must: (1) identify for the parties each Restricted Person and all personnel in or associated with the expert's firm that work on behalf of the Restricted Person; (2) take all reasonable steps to segregate those personnel assisting in the expert's participation in this proceeding from those personnel working on behalf of a Restricted Person; and (3) if segregation of such personnel is impractical, the expert shall give to the producing party written assurances that the lack of segregation will in no way adversely affect the interests of the parties or their customers. The parties retain the right to challenge the adequacy of the written assurances that the parties' or their customers' interests will not be adversely affected. No other persons may have access to the Proprietary Information except as authorized by order of the Commission.

9. Reviewing Representatives qualified to receive "HIGHLY CONFIDENTIAL" protected material may discuss HIGHLY CONFIDENTIAL protected material with their client or with the entity with which they are employed or associated, to the extent that the client or entity is not a "Restricted Person," but may not share with, or permit the client or entity to review or have access to, the HIGHLY CONFIDENTIAL protected material.

10. Proprietary Information shall be treated by the parties and by the Reviewing Representative in accordance with the terms of this Protective Order, which are hereby expressly incorporated into the certificate that must be executed pursuant to Paragraph 12(a). Proprietary Information shall be used as necessary, for the conduct of this proceeding and for no other purpose. Proprietary Information shall not be disclosed in any manner to any person except a Reviewing Representative who is engaged in the conduct of this proceeding and who needs to know the information in order to carry out that person's responsibilities in this proceeding.

11. Reviewing Representatives may not use anything contained in any Proprietary Information obtained through this proceeding to give any party or any competitor of any party a

commercial advantage. In the event that a party wishes to designate as a Reviewing Representative a person not described in paragraph 6 (i) through (iii) above, the party must first seek agreement to do so from the party providing the Proprietary Information. If an agreement is reached, the designated individual shall be a Reviewing Representative pursuant to Paragraph 6 (iv) above with respect to those materials. If no agreement is reached, the party seeking to have a person designated a Reviewing Representative shall submit the disputed designation to the presiding Administrative Law Judge for resolution.

12. (a) A Reviewing Representative shall not be permitted to inspect, participate in discussions regarding, or otherwise be permitted access to Proprietary Information pursuant to this Protective Order unless that Reviewing Representative has first executed a Non-Disclosure Certificate in the form provided in Appendix A, provided, however, that if an attorney or expert qualified as a Reviewing Representative has executed such a certificate, the paralegals, secretarial and clerical personnel under his or her instruction, supervision or control need not do so. A copy of each executed Non-Disclosure Certificate shall be provided to counsel for the party asserting confidentiality prior to disclosure of any Proprietary Information to that Reviewing Representative.

(b) Attorneys and outside experts qualified as Reviewing Representatives are responsible for ensuring that persons under their supervision or control comply with the Protective Order.

13. The parties shall designate data or documents as constituting or containing Proprietary Information by stamping the documents “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL” protected material. Where only part of data compilations or multi-page documents constitutes or contains Proprietary Information, the parties, insofar as reasonably

practicable within discovery and other time constraints imposed in this proceeding, shall designate only the specific data or pages of documents which constitute or contain Proprietary Information. The Commission and all parties, including the statutory advocates and any other agency or department of state government will consider and treat the Proprietary Information as within the exemptions from disclosure provided in the Pennsylvania Right-to-Know Act (65 P.S. § 67.708(b)(11)) until such time as the information is found to be non-proprietary.

14. Any public reference to Proprietary Information by a party or its Reviewing Representatives shall be to the title or exhibit reference in sufficient detail to permit persons with access to the Proprietary Information to understand fully the reference and not more. The Proprietary Information shall remain a part of the record, to the extent admitted, for all purposes of administrative or judicial review.

15. Part of any record of this proceeding containing Proprietary Information, including but not limited to all exhibits, writings, testimony, cross examination, argument, and responses to discovery, and including reference thereto as mentioned in paragraph 14 above, shall be sealed for all purposes, including administrative and judicial review, unless such Proprietary Information is released from the restrictions of this Protective Order, either through the agreement of the parties to this proceeding or pursuant to an order of the Commission.

16. The parties shall retain the right to question or challenge the confidential or proprietary nature of Proprietary Information and to question or challenge the admissibility of Proprietary Information. If a party challenges the designation of a document or information as proprietary, the party providing the information retains the burden of demonstrating that the designation is appropriate.

17. The parties shall retain the right to object to the production of Proprietary Information on any proper ground, and to refuse to produce Proprietary Information pending the adjudication of the objection.

18. Within 30 days after a Commission final order is entered in the above-captioned proceeding, or in the event of appeals, within thirty days after appeals are finally decided, the receiving party, upon request, shall either destroy or return to the parties all copies of all documents and other materials not entered into the record, including notes, which contain any Proprietary Information. In its request, a providing party may specify whether such materials should be destroyed or returned. In the event that the materials are destroyed instead of returned, the receiving party shall certify in writing to the providing party that the Proprietary Information has been destroyed. In the event that the materials are returned instead of destroyed, the receiving party shall certify in writing to the providing party that no copies of materials containing the Proprietary Information have been retained.

Date: _____, 2020

Eranda Vero
Administrative Law Judge

APPENDIX A

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PETITION OF PECO ENERGY :
COMPANY FOR APPROVAL OF ITS : **Docket No. P-2020-3019290**
DEFAULT SERVICE PROGRAM FOR :
THE PERIOD FROM JUNE 1, 2021 :
THROUGH MAY 31, 2025 :

NON-DISCLOSURE CERTIFICATE

TO WHOM IT MAY CONCERN:

The undersigned is the _____ of _____
(the receiving party).

The undersigned has read and understands the Protective Order deals with the treatment of Proprietary Information. The undersigned agrees to be bound by, and comply with, the terms and conditions of said Order, which are incorporated herein by reference.

SIGNATURE

PRINT NAME

ADDRESS

EMPLOYER

DATE:

APPENDIX B

PROPOSED DISCOVERY PROCEDURE MODIFICATIONS

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PETITION OF PECO ENERGY :
COMPANY FOR APPROVAL OF ITS :
DEFAULT SERVICE PROGRAM FOR : **DOCKET NO. P-2020-3019290**
THE PERIOD FROM JUNE 1, 2021 :
THROUGH MAY 31, 2025 :

PECO PROPOSED DISCOVERY PROCEDURE MODIFICATIONS

1. Answers to written interrogatories are to be served in-hand within ten (10) calendar days of service of the interrogatories.
2. Objections to interrogatories are to be communicated orally within three (3) days of service; unresolved objections are to be served on the Administrative Law Judge in writing within five (5) days of service of the interrogatories.
3. Motions to dismiss objections and/or direct the answering of interrogatories are to be filed within three (3) calendar days of service of written objections.
4. Answers to motions to dismiss objections and/or directing the answering of interrogatories shall be filed within three (3) calendar days of service of such motions.
5. Responses to requests for documents production, entry for inspection, or other purposes are to be served in-hand within ten (10) calendar days of service.
6. Requests for admission are deemed admitted unless answered within ten (10) calendar days or objected to within five (5) calendar days of service.
7. 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.

8. 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.
9. 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.
10. Discovery requests, motions to compel and responses are to be served electronically and will only be served on paper upon request.