


COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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March 1, 2024

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 its Default Service Program  
for the Period of June 1, 2025, through  
May 31, 2029  
Docket No. P-2024-3046008

Dear Secretary Chiavetta:

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

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

Respectfully Submitted,

/s/ Barrett C. Sheridan  
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Enclosures:

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

\*286052

## CERTIFICATE OF SERVICE

Petition of PECO Energy Company for :  
Approval of its Default Service Program for : Docket No. P-2024-3046008  
the Period of June 1, 2025, through May 31, :  
2029 :

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 1<sup>st</sup> day of March 2024.

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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-2024-3046008
June 1, 2025 through May 31, 2029	:	

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ANSWER  
OF THE  
OFFICE OF CONSUMER ADVOCATE

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**I. INTRODUCTION**

On February 2, 2024, PECO Energy Company (PECO or the Company) filed its Petition for Approval of its Default Service Plan for the Period from June 1, 2025 through May 31, 2029 (DSP VI 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. Notice of the Plan was published in the Pennsylvania Bulletin on February 17, 2024, which established an answer and intervention date of March 4, 2024. 54 Pa. B. 881.

In its Petition, PECO proposes to continue many elements of its DSP V Plan, which was the result of a partial settlement approved by the Commission in December 2020 for the period from June 1, 2021 through May 31, 2025. For example, the Company’s Time of Use (TOU) rate option was a new part of the Company’s approved DSP V Plan and is part of the Company’s proposed DSP VI. Petition at ¶¶ 38-44. On the other hand, PECO is proposing four principal changes to its default service program: 1) it seeks to double the amount of solar Alternative Energy Credits (AECs) to be procured through a long term purchase power agreement (PPA), 2) the Company seeks to incorporate a Capacity Proxy Price (CPP) into its Supplier Master Agreement (SMA) as a means of establishing a capacity cost for bid purposes when PJM

Interconnection has not conducted a Base Residual Auction (BRA) at the time of the procurement, 3) establish a reserve price for all of the Company's fixed-price full requirements (FPFR) contracts to help protect against high prices outside the range of market reasonableness, and 4) a change to default supply procurement limits for the large commercial and industrial (Large C&I) procurement class. Petition at ¶ 8.

The Office of Consumer Advocate (OCA) files this Answer to the Company's Petition to help ensure that a reasonable default service plan is approved that fully complies with the Public Utility Code's and the Commission's regulations that require PECO to design a plan that obtains default service supply at least cost over time pursuant to a prudent mix of contracts. 66 Pa. C.S. § 2807(e) (3.7); 52 Pa. Code § 54.181 *et seq.*

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 ¶¶ 13-15, 18. 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 ¶ 15. The winning bidders for the default service supply contracts will also be responsible for transferring Tier I and Tier II 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 ¶ 28.

The Plan for residential default service will be for a four-year duration, starting on June 1, 2025 and ending on May 31, 2029. Petition at ¶ 12.

PECO has proposed to continue the existing DSP V 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 ¶¶ 31, 32. For those tranches, PECO will assume the responsibility for any tranches that are unfilled in default service supply. Petition at ¶ 32. 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 to continue the current TOU rate options for eligible residential and small commercial default service customers. Petition at ¶¶ 36, 38-44. PECO proposes to continue to exclude customers enrolled in the Company's customer assistance program (CAP) from the residential TOU rate. Petition at ¶ 38.

Additionally, PECO proposes to continue the Standard Offer Program from June 1, 2025 through May 31, 2029. Petition at ¶ 47.

## **II. ANSWER**

The OCA has preliminarily reviewed the Company's Petition and identified a number of significant 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 VI, PECO proposes to continue for four years the basic procurement strategy used during DSP V for residential customers, consisting of a blend of laddered one-year and two-year full requirements contracts. Petition at ¶ 15. 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 ¶ 14. As discussed above, these purchases will comprise approximately 99% of PECO’s purchases for the residential procurement class. Petition at ¶ 20.

PECO proposes to continue to use its SMA but with modifications. Petition at ¶¶ 21-23. First, PECO proposes to include an Appendix I to the SMA, to reference and conform with federal banking regulations that impose requirements on swaps, repurchase agreements and other qualified financial contracts, which might include default service solicitations. Petition ¶ 22. Second, PECO proposes to revise its SMA to incorporate a capacity proxy price (CPP) mechanism, to use when PJM Interconnection (PJM) does not conduct its base residual auction (BRA) for capacity in time for default service suppliers to incorporate the BRA results into their bids. Petition at ¶¶ 8, 22. The Company’s CPP mechanism proposal is tied to projected delays linked to capacity market reforms proposed by FERC. Petition at ¶ 22. Under the proposal, if the BRA results are not known at the start of the delivery year, “winning suppliers will be debited or credited (as applicable) any difference between the CPP and the actual PJM capacity price.” *Id.*

The OCA submits that further examination and consideration 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. 66 Pa.C.S. § 2807(e). 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 the Public Utility Code and regulations. The OCA also intends to examine PECO's proposal to amend its SMA to enable global systemically important market organizations to participate in the Company's default service solicitations. Petition at ¶ 22.

2. Competitive Bid Solicitation Process and Independent Evaluator

As the Company did in DSP V, PECO proposes to solicit bids for default service supply that would extend beyond the DSP VI 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 ¶ 18. PECO proposes to again use NERA as the independent third-party evaluator. Petition at ¶ 24. The Company proposes to increase the load cap for the consolidated commercial & industrial class (C&I class) from 50% per the DSP V to 75% for the DSP VI period. Petition at ¶ 25. As another change, PECO proposes to implement a reserve price as part of the request for proposal process (RFP). Id. The reserve price would be set by and only known to the third-party evaluator. Id. The Company suggests the reserve price "would account for the costs and risks of the residential FPFR product obligation." 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 ¶ 27, 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 ¶ 27. 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 (including solar PV) and Tier II AECs to PECO. Petition at ¶ 28. The AEC credits will correspond to PECO's obligations associated with the amount of default service load served by that supplier. Petition at ¶ 28. 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 ¶ 28. During the DSP V, PECO states that conducted RFPs that resulted in contracts for annual delivery of 16,000 solar AECs over a 10-year period, with 8,000 of each year's solar AEC from solar generating facilities within PECO's service territory. Petition at ¶ 29. As part of DSP VI, PECO proposes to procure an additional 16,000 solar AECs in the first two years. Id. As a change from DSP V, PECO proposes to reduce the minimum bid amount to 50 solar AECs per year, with a corresponding reduction in the bid deposit amount. PECO projects the procurement changes may result in the total annual solar AEC amount satisfying approximately 45% of PECO's solar AEPS requirements. Id.

The OCA submits that the Company's proposal for compliance with AEPS requirements

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. As to the Company's proposed 2025 and 2026 solar AEC procurement, any shortfall would 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 V for residential customers, divided between generation (GSA) and transmission (TSC) components. Petition at ¶¶ 34-37. PECO requests full and current cost recovery of all DSP VI 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

As part of the DSP V, resolved by partial settlement and approved by the Commission, PECO implemented for eligible residential and small commercial customers a TOU rate option. Petition at ¶¶ 38-44. PECO proposes to maintain the same TOU rate design for DSP VI. Petition at ¶ 36. CAP customers will not be eligible for the TOU rate, to avoid potential adverse impacts on CAP benefits as identified by PECO. Petition at ¶ 38. The current TOU rates include a super off-peak pricing period to encourage electric vehicle (EV) charging overnight. Petition ¶ 40. The Company proposes to maintain the same time-differentiated pricing usage periods from DSP V for DSP VI. *Id.* The Company will continue to obtain generation supply for the standard and TOU default service for the residential procurement class. Petition at ¶ 42. TOU customer kWh sales will be included in the reconciliation of the over/undercollection component of the GSA for the residential procurement class. Petition at ¶ 44.

The OCA supports development of TOU rates consistent with the Company's obligation under Act 129. However, the results of the Company's TOU rate design and implementation under the DSP V partial settlement terms require examination to evaluate the effectiveness of the TOU elements such as annual pricing multipliers and differentiation of peak, off-peak, and super-off peak times. The Company's communication of the TOU rate option for residential consumers should be understandable, accessible, and useful for the Company's customers. To continue as part of the DSP VI, the TOU rate option must be examined to ensure that the program meets the needs of ratepayers while maintaining compliance with existing law and the

Commission's regulations.

E. Retail Market Enhancements

PECO proposes to continue the Standard Offer Program (SOP) in DSP VI. Petition at ¶ 47. Currently in DSP V, 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 ¶ 47. PECO proposes to continue this cost recovery methodology. Id. The OCA submits that the Company's proposal to continue the SOP beyond May 31, 2025 should be reviewed as the OCA has significant concerns about the operation of the SOP and its continuation beyond May 31, 2025. The OCA intends to investigate whether the SOP should continue and, if it does, whether substantial changes are need to protect consumers from paying excessive retail electric supply prices. The OCA will seek to ensure that the program, if continued, maintains and improves reasonable and appropriate consumer protections.

F. Residential Bill Improvement

PECO proposes to add a chart to the first page of the residential customer bill that compares the customer's total supplier charges for the billing period and what the dollar amount of the charges would be under PECO's applicable price to compare (PTC), based upon the customer's usage during the billing period. Petition at ¶ 49. The Company's proposed residential bill change follows from the DSP V case and a stakeholder discussion process to discuss residential bill improvements. Id.

The Company's residential bill change proposal requires evaluation to assure that the information communicated by PECO is presented in a manner that is clear, informative, and does not confuse the consumer. Changes to the Company's residential bill should comply with the

Public Utility Code, Commission regulations, and advance Act 129 policy.

G. Procedural Issues

PECO provides a proposed procedural schedule in its Petition. Petition at ¶ 50. The OCA objects to a procedural schedule that was proposed by PECO which has a final order on October 10, 2024, as such a schedule unreasonably shortens the period for review by more than a month based on PECO's decision about when to file this case. The OCA submits that the confluence of the fact that the Commission only has one (1) public meeting in October should not unreasonably prejudice the parties in this case given that had PECO filed its Plan six (6) days later – on or around February 8<sup>th</sup> -- the parties would have had until November 7, 2024 public meeting to address this case. The OCA submits that the while the parties can only plan around the schedule as posted, the OCA will be proposing a schedule in this case that provides it and others more time up front to address issues in direct testimony based on the timing decisions made by PECO about when it filed the case. The OCA is committed to work with all parties to develop a mutually agreeable procedural schedule.

### III. CONCLUSION

WHEREFORE, the Office of Consumer Advocate respectfully requests that the Company's default service filing be thoroughly reviewed to ensure that the default service rates that will be charged starting June 1, 2025 are just and reasonable and otherwise consistent with Pennsylvania law.

Respectfully Submitted,

*/s/ Barrett C. Sheridan*

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March 1, 2024

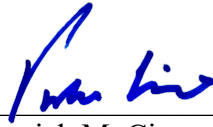
BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of PECO Energy Company for :  
Approval of its Default Service Program : Docket Number P-2024-3046008  
For the Period of June 1, 2025 through :  
May 31, 2029 :

VERIFICATION

I, Patrick M. Cicero, hereby state that the facts set forth in the Office of Consumer Advocate's Answer to the Petition of PECO Energy Company for Approval of its Default Service Program For the Period of June 1, 2025 through May 31, 2029, are true and correct (or are true and correct to the best of my knowledge, information, and belief) and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

DATED: March 1, 2024

Signature:   
\_\_\_\_\_  
Patrick M. Cicero  
Consumer Advocate

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