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VIA e-FILING
Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

Re: Proceeding to Evaluate Transition to Corrected Non-Solar Tier I Calculation Methodology, Docket No. M-2009-2093383

Dear Secretary Chiavetta:

Enclosed for filing are the **Comments of PECO Energy Company** in regard to the above-referenced matter.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

W. Craig Williams

Enclosure

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Proceeding to Evaluate Transition to Corrected Non-Solar Tier I Calculation Methodology	: : :	**Docket No. M- 2009-2093383**

COMMENTS OF PECO ENERGY COMPANY

Pursuant to the August 11, 2016 Tentative Order ("Tentative Order") entered by the Pennsylvania Public Utility Commission (the "Commission") in the above-referenced docket, PECO Energy Company ("PECO" or the "Company") hereby submits comments on the Commission's proposed options for remedial action to address the 2016 quarterly increase (the "2016 Adjustment") in non-solar Tier I obligations under Pennsylvania's Alternative Energy Standards Act, 73 P.S. §§ 1643.1 *et seq.* (the "AEPS Act" or "AEPS"), and provisions of the Pennsylvania Public Utility Code, 66 Pa. C.S. § 2814(c).

PECO appreciates this opportunity to comment on the two options set forth in the Tentative Order. As described below, PECO believes the Commission should extend the AEPS true-up period ("Option 2") to provide any affected electric distribution companies ("EDCs") and electric generation suppliers ("EGSs") additional time to procure sufficient alternative energy credits ("AECs") to satisfy the requirements of the 2016 Adjustment. The Commission's alternative option – in which EDCs conduct procurements for additional AECs at the expense of EDC customers and transfer those AECs to EGSs operating in each EDC's respective distribution zone ("Option 1") – should not be adopted, as it would improperly assign EGS obligations to EDCs and customers while also creating unnecessary administrative complexity.

I. BACKGROUND ON AEPS COMPLIANCE IN PECO'S DISTRIBUTION ZONE

As the default service provider in PECO's distribution zone, PECO is required to meet AEPS obligations to procure increasing amounts of energy from alternative energy sources, as measured in AECs. *See* 73 Pa. C.S. § 1643.3. PECO is also required to obtain AECs in accordance with other provisions of the Public Utility Code, which mandate the use of competitive procurements and a "prudent mix" of AECs at "least cost over time". *See* 66 Pa. C.S. § 2870(e)(3.5).

In order to comply with these requirements, PECO obtains AECs in three ways:

- Under the supply master agreement approved by the Commission as part of PECO's default service program, each winning wholesale default service supplier in PECO's competitive default service procurements is required to provide PECO with AECs equal to the AEPS requirements for the percentage of default service load served by that supplier.[1] Suppliers transfer AECs to PECO on a quarterly basis, with an annual true-up period ending before the true-up period under the AEPS Act to ensure that PECO has sufficient time to meet its obligations for each AEPS compliance year.

- With Commission approval, PECO conducted a competitive procurement during its cost-recovery period under the AEPS Act and entered into several ten-year contracts for solar alternative energy credits ("SAECs").[2] The SAECs delivered under these contracts are applied to PECO's default service "Tier I" solar AEPS obligations and effectively reduce the number of SAECs which must be transferred to PECO by wholesale default service suppliers. All of these SAEC contracts expire in 2020.

- The Commission has also approved an AEC balancing mechanism for limited procurements of Tier I and Tier II AECs which PECO uses to address any AEPS obligations arising from the small amount of spot-market energy it procures as part of its default service programs.[3]

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[1] *See Petition of PECO Energy Co. for Approval of its Default Serv. Plan for the Period from June 1, 2015 through May 31, 2017*, Docket No. P-2014-2409362 (Order entered Dec. 4, 2014), pp. 11-12.

[2] *See Petition of PECO Energy Co. for Approval to Procure Solar Alternative Energy Credits*, Docket No. P-2009-2094494 (Order entered Aug. 28, 2009).

[3] *See Petition of PECO Energy Company for Approval to Procure Tier II Alternative Energy Credits and Additional Tier I and Solar Alternative Energy Credits*, Docket No. P-2010-2210975 (Order entered February 14, 2011).

The above procurement mechanisms have worked well for PECO and its default service customers, and PECO has never been required to make an alternative compliance payment under the AEPS Act. Furthermore, under the AEPS-related provisions of PECO's SMA, all of PECO's wholesale default service suppliers were obligated to transfer AECs to PECO to satisfy the increase arising from the 2016 Adjustment and have already completed those transfers at no additional expense to PECO's default service customers. As a result, PECO has no need to conduct any additional AEC procurements to meet the increased AEPS obligations arising from the 2016 Adjustment.

PECO does not procure any AECs for EGSs serving customers in its distribution zone, and each EGS is solely responsible for meeting its AEPS requirements. As the Commission has noted, PECO understands that most EGSs wait until the AEPS true-up period to satisfy their AEPS compliance obligations.[4]

II. THE COMMISSION SHOULD ADOPT OPTION 2 AND EXTEND THE TRUE-UP PERIOD FOR THE 2016 AEPS COMPLIANCE YEAR

PECO recognizes that the Commission's 2016 quarterly adjustment in non-solar Tier I AEPS obligations creates an additional expense for the EGSs who did not anticipate the possibility of having to procure additional AECs in 2016 in their pricing and contractual arrangements. The extension of the true-up period under Option 2 will provide more time for those EGSs to manage this additional expense, and PECO believes that such an extension of time is appropriate and permissible. The fact that the additional expense arose as a result of the Commission's re-calculation of AEPS requirements does not provide any basis to effectively

[4] *See* Amended Final Rulemaking Order, *Implementation of the Alternative Energy Portfolio Standards Act of 2004*, Docket No. L-2014-2404361 (Order entered Jun. 9, 2016) (stating that "[w]e also note that based on past experience, the vast majority of EGSs have not retired credits to their Pennsylvania account until near the end of the 90 day true-up period").

transfer the associated EGS AEPS obligation to EDCs and all customers under Option 1 for several reasons.

First, there has been no showing that EGSs are foreclosed from either providing or procuring the AECs necessary to meet their AEPS obligations. While the Commission suggests that it may be able to generally "leverage the purchasing power" of EDCs to "ameliorate effects of the miscalculation," the Commission does not provide any reason to conclude that EDCs will actually obtain a better price for AECs in competitive markets than EGSs or why all customers should now pay the costs of those EGSs who did not consider the possibility that AEPS compliance requirements could increase unexpectedly. For those EGSs who already have AECs which can be applied to the 2016 Adjustment or who have other sources for AECs which do not require buying AECS at current market prices, the transfer of more AECs to those EGSs would constitute a windfall savings paid for by EDC customers.

Second, the overall costs of the 2016 Adjustment appear to be limited and unlikely to affect the profitability of EGSs for which AEPS compliance is only one cost of the generation service they provide. Based on the Commission's projections of a total AEC requirement of about 500,000 AECs for the 2016 Adjustment, the entire statewide cost of compliance for both EDCs and EGSs is roughly $6 to $7 million.

Third, Option 1 will require the development of new administrative procedures to implement the AEC purchases and transfers envisioned by the Commission which do not exist at this time. If the Commission requires EDC customers to pay for the costs of the AECs transferred to EGSs, PECO anticipates that it would develop and conduct a competitive procurement to ensure that the lowest possible price is obtained. Assuming a successful procurement, PECO would then be required to enter into purchasing contracts with one or more

AEC suppliers and would also have to make separate transfer arrangements with each of the 104 EGSs currently serving customers in PECO's service territory. The exact mechanism by which the individual AEPS compliance requirements of each EGS associated with load served in PECO's distribution zone would be determined is not addressed by the Tentative Order, nor is it clear how any disputes that might arise regarding the number of AECs required or AEC transfers would be addressed.

In contrast, Option 2 permits the EGSs serving PECO's distribution zone who require additional AECs to individually select the most effective market mechanism to procure exactly the amount of AECs they need and pay a price that is consistent with their own business arrangements and priorities. To the extent the Commission believes that additional time would facilitate lower compliance expense under Option 2, PECO believes that the Commission could extend the 2016 true-up period through and including May 31, 2017 without adverse effect.[5]

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[5] The Tentative Order does not address whether the Commission intends to take any actions regarding future AEPS reporting periods. *Cf.* Secretarial Letter to EDCs and EGSs with AEPS Obligations (Aug. 9, 2016) (extending AEPS true-up period for 2016 and explaining that the extension "provides the Commission additional time to address, with input from all stakeholders, the impact of the unanticipated increase in Tier I requirements and any potential options to mitigate that impact on EGSs and EDCs for the 2016 and/or subsequent compliance years."). Consistent with the foregoing comments, PECO believes that any additional EGS AEPS requirements associated with other AEPS reporting periods should remain the responsibility of EGSs.

PECO appreciates the opportunity provide these comments to the Commission and looks forward to a resolution of the 2016 quarterly adjustment issue.

Respectfully Submitted,

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