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INDEPENDENT REGULATORY  
REVIEW COMMISSION

Direct Dial: 717-901-9846

December 21, 2007

VIA FED EX

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James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2<sup>nd</sup> floor  
Harrisburg, PA 17120

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

**Re: Retail Electricity Choice Activity Reports  
Docket No.: L-00070184**

Dear Mr. McNulty:

Enclosed are an original and fifteen copies of the Comments of PECO Energy Company. Kindly file the original of record with your office and acknowledge same by date-stamping and returning the additional copy of this letter in the self-addressed stamped envelope provided.

Thank you for your assistance in this effort.

Sincerely,

Jennifer L. Walker, Esquire  
Regulatory Affairs Manager

JLW/bmm  
Enclosures

DEC 21 2007

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU**

**Proposed Rulemaking for  
Retail Choice Activity Reporting**

:  
:

**Docket No. L-00070184**

**COMMENTS OF PECO ENERGY COMPANY**

**Introduction**

PECO Energy Company ("PECO") hereby submits these comments in response to the Pennsylvania Public Utility Commission's ("PUC" or "Commission") *Proposed Rulemaking Order for Retail Choice Activity Reporting* ("Proposed Rulemaking Order") entered on April 17, 2007 and published in *The Pennsylvania Bulletin* on November 3, 2007.

Prior to issuing the Proposed Rulemaking Order, the Commission issued an *Order Requesting Comments on Development and Production of Retail Electricity Choice Activity Reports*<sup>1</sup> ("Order Requesting Comments"). It sought comments on the appropriate content of reports to be submitted by electric distribution companies ("EDCs") and electric generation suppliers ("EGSs"). PECO did not provide individual comments at that time, but supported the comments submitted by the Energy Association of Pennsylvania ("EAPA" or "Association"). In light of the more detailed information provided in the Proposed Rulemaking Order and corresponding attachment, *Annex A*, PECO believes that individual comments specific to the proposed data are appropriate.

PECO is generally supportive of the Proposed Rulemaking Order and does not believe that the additional reporting requirements will impose an undue burden. However, PECO urges the Commission to provide for a six-month implementation period after the Final Rulemaking

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<sup>1</sup> *Order Requesting Comments on Development and Production of Retail Electricity Choice Activity Reports*, entered April 12, 2006, at Docket M-00061939.

goes into effect to allow for the information system programming necessary to accommodate the change in reporting by customer class as required by the new rules.

**Comments on identified issues**

- 1. Should this Commission implement reporting requirements similar to ones created by the Maryland Public Service Commission (MD PSC) to monitor competitive market development?**

The Commission, after reviewing the parties' responses to its Order Requesting Comments<sup>2</sup>, developed draft report forms that are similar, but not identical, to those used by the Maryland PSC. Two forms were developed to report on customer shopping: 1) one for use by EDCs and 2) one for use by EGSs. The Proposed Rulemaking Order states that:

An EDC will be required to report shopping activity in its service territory while an EGS will be required to report on a statewide basis. Note that only active EGSs need file these reports. For the purposes of this reporting requirement, active EGSs will be defined as: (1) suppliers that are licensed to provide retail electric generation service and (2) that are currently providing service to one or more customers.<sup>3</sup>

PECO supports the proposal for EDCs to report shopping activity because it will allow for the objective comparison of shopping and non-shopping statistics among the various electric distribution systems in the Commonwealth.

- 2. What reporting frequency is optimal for EGSs and EDCs?**

The Proposed Rulemaking Order would require that EDCs file quarterly reports with the Commission's Secretary 15 days after the end of the previous quarter<sup>4</sup>. EGSs, on the other

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<sup>2</sup> *Id.*

<sup>3</sup> See page 5, *Proposed Rulemaking Order on Retail Electricity Choice Activity Reports*, entered April 17, 2007, at Docket L-00070184.

<sup>4</sup> See page 7, *Proposed Rulemaking Order*.

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hand, would be required to file their sales activity report annually for the previous calendar year on or before April 30 of each year<sup>5</sup>.

PECO supports the Commission's determination that reporting should be completed by both EDCs and EGSs. However, PECO believes that both EDCs and EGSs should report at the same frequency, and recommends that the frequencies occur on either an annual or quarterly basis to maintain consistency with other established PUC reporting requirements. Requiring EGSs to report at the same frequency as EDCs will maintain consistency in reporting requirements and will enable the Commission to more effectively use the data filed by EGSs and EDCs.

Furthermore, PECO also recommends that EDCs file the reports 30 days after the end of the previous quarter rather than the proposed 15 days<sup>6</sup>. As stated above, PECO believes that maintaining consistency with already established reporting requirements will enable the PUC to effectively evaluate the information provided. Also, filing reports 30 days after the previous quarter will give both entities the time needed to reconcile sales before compiling the information for reports and is a consistent time period with current reporting requirements for reliability and other reports required by the Commission.

### **3. What Data Elements that should be gathered from EGSs and EDCs?**

The Commission found that more detailed reports would enable it to monitor which EGSs and customer classes are participating in retail markets<sup>7</sup>. Therefore, the Commission is proposing to require that EDCs report the following information by customer class:

- (1) Number of customer accounts.
- (2) Sales by EGS (MWh).
- (3) Sales by the EDC (MWh).
- (4) Number of EGSs serving customer accounts.
- (5) Number of time of use customer accounts served by EGSs.

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<sup>5</sup> *Id.*

<sup>6</sup> See page 10, *Annex "A"* hereto.

<sup>7</sup> See page 9, *Proposed Rulemaking Order*.

- (6) Number of time of use customer accounts served by the EDC.
- (7) Number of hourly/real time price customer accounts served by EGSs.
- (8) Number of hourly/real time price customer accounts served by the EDC.
- (9) Sales by EGSs to hourly/real time priced customer accounts (MWh).<sup>8</sup>

Furthermore, the Proposed Rulemaking Order proposes that EDCs report EGS market share as number of customer accounts served by EGSs and the total sales in Megawatthours (“MWh”) that these accounts represent. Specifically, the Commission proposes to require EDCs to report the following information for each EGS providing generation sales in the EDC’s service territory:

- (1) Identity of EGS.
- (2) By customer class for residential customers, small C&I customers, medium C&I customers and large C&I customers, number of customer accounts served by the EGS.
- (3) By customer class for residential customers, small C&I customers, medium C&I customers and large C&I customers, sales in MW to customer accounts.<sup>9</sup>

The Commission recognized the sensitive nature of this information and is proposing that it be reported in the aggregate so that no specific EGS data is made publicly available. The Proposed Rulemaking Order goes on to add that EDC-reported data related to EGS market share will be kept confidential.<sup>10</sup>

PECO supports the proposal to report this information in the aggregate and to keep EGS market share data confidential because it will protect sensitive company information. By establishing these protections, the Commission is encouraging accurate and open reporting because Companies will feel comfortable providing the data knowing that it will remain secure after it is reported.

#### **4. What class or sizes of customers should be grouped together in reports?**

The Proposed Rulemaking Order states that the issue of grouping retail customers into categories based on rate classes or on consumption has been debated in other Commission

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<sup>8</sup> See page 10, *Proposed Rulemaking Order*.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

proceedings and that no uniform solution has been reached.<sup>11</sup> The Commission believes that the inconsistency in consumption-based customer classifications adds to confusion, and may increase the burden of companies, both EDCs and EGSs, in complying with regulatory requirements and Commission directives. Therefore, it is seeking to establish a standard classification for use across the board<sup>12</sup>.

Since the definition of a customer's Peak Load Contribution ("PLC") is uniform throughout PJM, the Commission believes that a customer's classification based on PLC would prevent reporting variations between EDC service territories, would simplify reporting for EGSs operating in multiple EDC service territories, and would allow for direct comparisons of sales activity among various EDC retail markets. It, therefore, proposes that customer classification is best accomplished using PLCs, rather than the EDC-specific MRPLs.

Specifically, the Commission believes that the data should be collected and reported for the following groups:  
• residential customers; small C&I customers are those with PLCs less than 25 kW; medium C&I customers are those with PLCs ranging from 25 kW up to and including 500 kW; and large C&I customers are those with PLCs greater than 500 kW.<sup>13</sup>

The customer groupings by size use PLC as the basis of differentiating between small, medium and large C&I customers. PECO supports using PLC as the measure for determining C&I customer groupings. This is consistent with the allocation established in the Commission's *Final Rulemaking Order Regarding Electric Distribution Companies' Obligation to Serve Retail Customers at the Conclusion of the Transition Period* ("Default Service Rulemaking")<sup>14</sup> and will, therefore, keep the information provided to the Commission consistent for ease of comparison.

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<sup>11</sup> See page 12, *Proposed Rulemaking Order*.

<sup>12</sup> See page 13, *Proposed Rulemaking Order*.

<sup>13</sup> See page 14, *Proposed Rulemaking Order*.

<sup>14</sup> *Rulemaking Re Electric Distribution Companies' Obligation to Serve Retail Customers at the Conclusion of the Transition Period Pursuant to 66 Pa.C.S. § 2807(e)(2)*, Final Rulemaking Order entered May 10, 2007, at Docket No. L-00040169.

PECO's current information system program for generating customer choice shopping statistics reports is based on rate class. The Commission's proposal would require PECO to change its reporting specifications from a rate class to a PLC basis. PECO supports reporting residential and commercial classes separately because showing the data in this manner will enable an effective comparison of the statistics. However, changing the customer classification from rate class to a PLC basis will require report system programming changes that will take additional time to implement. Therefore, PECO recommends that the Commission allow six months from the time this Proposed Rulemaking Order is adopted as Final to the time reporting under the new format is effective so that report system programming changes can be made.

Furthermore, if the Commission subsequently changes the report format after the new reporting requirements are established and those changes to the report format require further information technology system changes, PECO recommends that those reporting changes be implemented on a new six-month implementation schedule.

**a. Should these classes be the same or be permitted to vary among different EDCs?**

The Proposed Rulemaking Order disposes of this issue by requiring consistency in the definition of customer classes used in reporting.<sup>15</sup> PECO agrees that customer classes should be uniform among all systems to allow for the effective comparison of the shopping statistics.

**b. What information should be publicly available vs. confidential?**

The Commission agreed with the commenters that individual EGS market share information should remain confidential and proposes that EDC-reported data that does not disclose individual EGS market share may be made public because it is not confidential<sup>16</sup>.

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<sup>15</sup> See page 14, *Proposed Rulemaking Order*.

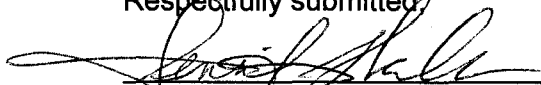
<sup>16</sup> See page 17, *Proposed Rulemaking Order*

PECO agrees with the Commission's determination that this information is sensitive. Moreover, PECO recommends that the Commission allow EDCs to provide EGS information in aggregate by category<sup>17</sup> and provide supporting data separately to the Commission under confidential cover.

### **Conclusion**

PECO commends the Commission for its thoughtful response to comments provided to its initial Order Requesting Comments and believes that the information requested will not pose an undue burden on EDCs and EGSs. PECO strongly encourages the Commission to strive for consistency among existing reporting requirements and the reporting requirements that will be developed as a result of this rulemaking. Maintaining consistency in reporting time periods and reporting categories among various reports provided to the PUC will enable the Commission to effectively meet its goal of using information provided by EDCs and EGSs to monitor Pennsylvania's retail electric generation market for sales activity and consumer behavior.

Respectfully submitted,



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Dated: December 21, 2007

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<sup>17</sup> See page 10, *Proposed Rulemaking Order*.



ANNEX A

TITLE 52. PUBLIC UTILITIES

PART I. PUBLIC UTILITY COMMISSION

Subpart C. FIXED SERVICE UTILITIES

CHAPTER 54. ELECTRICITY GENERATION CUSTOMER CHOICE

**Subchapter H. RETAIL ELECTRICITY CHOICE SALES ACTIVITY REPORTS**

**§ 54.201. Purpose.**

This subchapter establishes reporting requirements applicable to EDCs and active EGSs and requires the reporting of information related to retail electric generation sales activity. The Commission will use this information to fulfill its duty to monitor the Commonwealth's retail electric generation market and to police and arrest instances of market power abuse and discriminatory conduct. 66 Pa.C.S. § 2811. The information shall be used to conduct milestone reviews of the development of the retail market for the supply and distribution of electricity. 66 Pa.C.S. § 2804 (12).

**§ 54.202. Definitions.**

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

*Active EGS* – An EGS that is licensed to provide retail electric generation service and is providing service to one or more customers.

*CEEP* - The Bureau of Conservation, Economics and Energy Planning.

*EDC - Electric Distribution Company* - The term as defined in 66 Pa.C.S. § 2803.

*EGS – Electric Generation Supplier* - The term as defined in 66 Pa. C.S. § 2803.

kW – Kilowatts.

Large C&I customers – Commercial and industrial customers with PLCs greater than 500 kW.

Medium C&I customers – Commercial and industrial customers with PLCs ranging from 25 kW up to and including 500 kW.

MWh - Megawatthours.

Peak Load Contributions – PLC - The highest level of demand for a particular customer, based on the PJM Interconnection, LLC, peak load contribution standard, or its equivalent for a Pennsylvania EDC outside of PJM.

Small C&I customers - Commercial and industrial customers with PLCs less than 25 kW.

#### **§ 54.203. Reporting requirements.**

##### (a) Reporting requirements.

(1) An EDC or an active EGS shall report the information regarding retail sales of electric generation in accordance with this subchapter.

(2) An EDC shall report retail sales activity in its service territory. The EDC shall report the following information by customer class for residential, small C&I customers, medium C&I customers and large C&I customers:

(i) Number of customer accounts.

(ii) Sales by EGS (MWh).

(iii) Sales by the EDC (MWh).

(iv) Number of EGSs serving customer accounts.

(v) Number of time of use customer accounts served by EGSs.

(vi) Number of time of use customer accounts served by the EDC.

(vii) Number of hourly/real time price customer accounts served by EGSs.

(viii) Number of hourly/real time price customer accounts served by the

EDC.

(ix) Sales by EGSs to hourly/real time priced customer accounts (MWh).

(x) Sales by the EDC to hourly/real time priced customer accounts (MWh).

(3) An EDC shall report the following information for an EGS providing service in the EDC's service territory:

(i) Identity of the EGS.

(ii) By customer class for residential customers, small C&I customers, medium C&I customers and large C&I customers, number of customer accounts served by the EGS.

(iii) By customer class for residential customers, small C&I customers, medium C&I customers and large C&I customers, sales in MWh to customer accounts.

(4) An active EGS shall report retail sales activity on a statewide basis. The EGS shall report the following information by customer class for residential, small C&I customers, medium C&I customers and large C&I customers:

(i) Number of customer accounts.

(ii) Number of flat rate customer accounts.

(iii) Number of seasonal rate customer accounts.

(iv) Number of time of use customer accounts.

(v) Number of hybrid rate customer accounts.

(vi) Number of fixed term contract customer accounts by length of term.

(vii) Number of green power customer accounts.

(viii) Number of mandatory curtailable customer accounts.

(ix) Number of voluntary curtailable customer accounts.

(x) Number of customer accounts based on billing methods.

(5) An EDC shall file quarterly sales activity reports with the Commission's Secretary. A quarterly report shall be filed no later than ~~15~~ 30 days after the end of the previous quarter.

(6) An active EGS shall file an annual sales activity report for the previous calendar year on or before April 30 of each year.

(b) Report forms.

(1) The Commission shall provide separate report forms for EDC and EGS use. An EDC or an active EGS shall use the applicable report form.

(2) Report forms shall be made available in both paper and electronic format.

(3) An EDC or active EGS shall file an original and two copies of a completed paper report form with the Commission's Secretary. When the report form is filed electronically, one paper copy of the report form shall be filed with the Commission's Secretary no later than 15 days after the report is due.

(c) *Compliance monitoring and enforcement.* CEEP is the Commission bureau responsible for retaining reports filed pursuant to this subchapter, and for monitoring and enforcing compliance with this subchapter.

#### **§ 54.204. Public information.**

The Commission will make available to the public on an aggregated basis information contained in sales activity reports that does not disclose individual EGS market shares.

**Pennsylvania Retail Electricity Choice Activity Report: Electric Distribution Company (EDC) Survey**

**Reported By EDC Territory**

**EDC Name:**

**Reporting Period Date:**

<b>Data from EDC</b>	<b>Residential</b>	<b>Sm C&amp;I</b>	<b>Med C&amp;I</b>	<b>Large C&amp;I</b>	<b>Total</b>
<b>1. Number of Customer Accounts by Service Type</b>					
Total Number of Customer Accounts Served by EGSs					
Total Number of Customer Accounts Served by EGSs & EDC					
Percent of Customer Accounts Served by EGSs	%	%	%	%	%
<b>2. MWh Sales by Service Type</b>					
MWh Sales of EGSs					
MWh Sales of EGSs & EDC					
Percent of MWh Sales of EGSs	%	%	%	%	%
<b>3. Total Number of EGSs Serving Customer Accounts by Class</b>					
<b>4a. Time of Use (Different prices for usage at different times during week days or every day. I.e. rate has peak period &amp; off-peak prices)</b>					
Total Number of TOU Customer Accounts Served by EGSs					
Total Number of TOU Customer Accounts Served by EGSs & EDC					
Percent of TOU Customer Accounts Served by EGSs	%	%	%	%	%
<b>4b. MWh Sales: Time of Use Customer Accounts</b>					
MWh Sales of EGSs					
MWh Sales of EGSs & EDC					
Percent of MWh Sales of EGSs	%	%	%	%	%
<b>5a. Number of Customer Accounts on Hourly/Real Time Priced Service</b>					
Total Number of Hourly/Real Time Priced Customer Accounts Served by EGSs					
Total Number of Hourly/Real Time Priced Customer Accounts Served by EGSs & EDC					
Percent of Customer Accounts Served by EGSs	%	%	%	%	%
<b>5b. MWh Sales: Hourly/Real Time Priced Customer Accounts</b>					
MWh Sales of EGSs					
MWh Sales of EGSs & EDC					
Percent of MWh Sales of EGSs	%	%	%	%	%



**Pennsylvania Retail Electricity Choice Activity Report: Electric Generation Supplier (EGS) Survey  
Reported on a Statewide Basis**

**EGS Name:**

**Reporting Period Date:**

<b>Data from EGS</b>	<b>Residential</b>	<b>Small C&amp;I</b>	<b>Medium C&amp;I</b>	<b>Large C&amp;I</b>	<b>Total</b>
<b>1. Total Number of Customer Accounts Served</b>					
<b>2. Number of Customer Accounts- Flat Rate*</b>					
<b>3. Number of Customer Accounts- Seasonal Rates*</b>					
Seasonal rates differ in summer/non-summer.					
<b>4. Number of Customer Accounts- Time of Use Rates*</b>					
Different prices for usage at different times during week days or every day. Example-rate has peak period & off-peak prices Monday-Friday in summer.					
<b>5. Number of Customer Accounts-Hybrid Rate Schedule*</b>					
Includes any pricing arrangement which incorporates hourly rates and block rates.					
<b>6. Number of Customer Accounts-Other Categories*</b>					
(Do not include Customers in #2-5 or #8.) Please Specify:					
<b>7a. Number of Customer Accounts in #2-6 on 1 year fixed term contract</b>					
<b>7b. Number of Customer Accounts in #2-6 on 2 year fixed term contract</b>					
<b>7c. Number of Customer Accounts in #2-6 on 3 year fixed term contract</b>					
<b>8. Number of Customer Accounts- Hourly/Real Time Rates*</b>					
Includes any pricing arrangement based on hourly or daily energy prices. Example: LMP based rate or rate based on prior-day announced price.					
<b>9a. Number of Customer Accounts-Mandatory Curtailable</b>					
<b>9b. Number of Customer Accounts-Voluntary Curtailable</b>					
<b>10. Number of Customer Accounts- Green Power</b>					
Defined as electric supply that has been promoted as having greater than required renewable content & exceeds existing minimum renewable content requirements for retail power. Products offered to customer when customer requests specialized service.					
<b>11. Number of Customer Accounts-Supplier Billing</b>					
Includes all customers who are not billed by the utility for the supplier's services. Includes customers billed by a billing service other than the utility.					
<b>12. Number of Customer Accounts- Auto Payment</b>					
Includes customers indicated in #11 who are billed automatically on credit cards or other automatic payment arrangement. (i.e. bank transfer)					
<b>13. Number of Customer Accounts- Budget Billing</b>					

\* Do Not Include A Customer Under More Than 1 Rate Schedule in #2-6 & 8.