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August 17, 2011

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VIA ELECTRONIC MAIL

The Honorable Chairman Silvan B. Lutkewitte, III
Independent Regulatory Review Commission
333 Market Street, 14th Floor
Harrisburg, PA 17101

RE: Natural Gas Distribution Companies and the Promotion of Competitive Retail
Markets
PUC Docket L-2008-2069114
IRRC No. 2772; Regulation 57-269

Dear Chairman Lutkewitte:

Enclosed for filing are the **“Comments Of PECO Energy Company To The Pennsylvania Public Utility Commission’s Revised Final Rulemaking Order Setting Forth Proposals, In Part, To Reformulate The Price To Compare And Adopt Permanent Rules For Voluntary Purchase Of Receivable Programs”** in the above-captioned docket. This matter is currently set for IRRC review on Thursday, August 25, 2011.

Sincerely,


Michael S. Sworling
Counsel for PECO Energy Company

MSS:mb
Enclosure

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BEFORE THE
INDEPENDENT REGULATORY REVIEW COMMISSION

Natural Gas Distribution	:	Docket No. L-2008-2069114
Companies and Promotion of	:	
Competitive Retail Markets	:	IRRC No. 2772

**COMMENTS OF PECO ENERGY COMPANY TO THE PENNSYLVANIA
PUBLIC UTILITY COMMISSION'S REVISED FINAL RULEMAKING ORDER
SETTING FORTH PROPOSALS, IN PART, TO REFORMULATE THE PRICE
TO COMPARE AND ADOPT PERMANENT RULES FOR VOLUNTARY
PURCHASE OF RECEIVABLE PROGRAMS**

In accordance with Section 5.1(j) of the Pennsylvania Regulatory Review Act, PECO Energy Company ("PECO") hereby files these Comments with the Independent Regulatory Review Commission ("IRRC") in response to the Pennsylvania Public Utility Commission's ("Commission") Revised Final Rulemaking Order¹ on increasing retail competition in the natural gas market, entered on June 23, 2011. (" Revised Final Order").

I. INTRODUCTION

On February 23, 2011, the Commission entered a Final Rulemaking Order, which adopted additions to the Natural Gas Supply Customer Choice Regulations at 52 Pa. Code Chapter 62, *Subchapter G. Natural Gas Distribution Companies And Competition*. According to the Commission's order, natural gas competition will benefit from a "reformulation of the price to compare (PTC) to better reflect the gas commodity costs incurred by the incumbent natural gas distribution companies (NGDCs), [and an] adoption of permanent rules for voluntary purchase of receivables (POR) programs to facilitate market entry by natural gas suppliers (NGS)." (Final Order at 1).

¹ Rulemaking Re: Natural Gas Distribution Companies and Promotion of Competitive Retail Markets, Docket No. L-2008-2069114.

The Final Order adopted a number of changes, including the addition of several new items which would inappropriately require NGDCs to: 1) include fixed procurement costs in the PTC – thereby increasing costs to default service customers; 2) include the E-factor (recovery for over and under collections of the Purchased Gas Cost rates) in the PTC – thereby creating more complexity and instability for customers; and 3) recover incremental implementation costs for POR programs through a discount – thereby conflicting with PECO’s “zero discount” Commission-approved POR program.

The Commission recently issued a Secretarial Letter on June 9, 2011, in response to input received from the IRRC and the comments submitted by various stakeholders to the IRRC. In the letter, the Commission explained that it made some further revisions to Annex A of the rulemaking and invited parties to comment one last time.

The Commission entered its Revised Final Rulemaking Order on June 23, 2011. The IRRC plans to consider the Revised Final Order at its August 25, 2011 Public Meeting and invited comments from industry stakeholders. PECO largely supports the Commission’s efforts to increase retail competition in the natural gas market. However, PECO believes that the Commission’s Revised Final Order will unfairly shift costs to non-shopping customers, make the PTC confusing and volatile for customers, and conflict with PECO’s Commission approved “zero discount” POR program. PECO has reviewed and fully supports the Comments filed by the Energy Association of Pennsylvania (“EAP”) to the IRRC on August 17, 2011. PECO believes that the EAP’s August 17 comments adequately address the positions of PECO regarding the inclusion of procurement costs and the E-factor in the PTC. Therefore, PECO will only address the POR issue in these comments to the IRRC.

II. COMMENTS

APPLICATION OF 52 PA. CODE § 62.224 TO PECO'S APPROVED PURCHASE OF RECEIVABLES PROGRAM

On November 20, 2009, PECO filed the *Petition of PECO Energy Company for Approval of its Natural Gas Supplier Purchase of Receivables Program* ("Petition" or "Gas POR Program") at Docket P-2009-2143588. In its Petition, PECO requested, in part, that the Commission permit PECO: (i) to purchase the Low Volume Transportation ("LVT") customer receivables of natural gas suppliers ("NGSs") participating in PECO's consolidated natural gas distribution company ("NGDC") billing option for basic natural gas supply services in PECO's service territory, with zero discount and without recourse by PECO to those NGSs for receivables that PECO cannot collect; (ii) to recover uncollectible expense associated with NGS receivables through its distribution rates or through a non-bypassable, non-reconcilable default service support rider which the Company may introduce in a future rate case; (iii) to defer the recovery of the information technology ("IT") costs and other costs of implementing the Gas POR Program from all LVT customers until a specific recovery mechanism is approved in PECO's next base rate case. (Petition at 1).

By Order entered November 8, 2010, the Commission approved the Gas POR Program as modified by the Joint Petition for Partial Settlement ("Joint Petition"). The terms and conditions of the Joint Petition were developed between parties representing residential customers (the "Office of Consumer Advocate"), small businesses (the "Office of Small Business Advocate"), and natural gas suppliers and marketers ("Direct Energy Services, LLC"; "Interstate Gas Supply, Inc."; and "Dominion Retail, Inc."). Accordingly, it constitutes a carefully crafted package representing reasonable negotiated compromises on the issues raised in the proceeding.

Under the terms of the Joint Petition, PECO will utilize a 1% discount on purchased NGS receivables to reduce the balance of the implementation costs until the conclusion of PECO's first distribution rate case following the implementation of the Gas POR Program.² In PECO's first distribution base rate case following the implementation of the Program, if any implementation costs remain unrecovered, PECO will propose a mechanism to recover the remaining implementation costs as a charge to LVT customers (both shopping and non-shopping) and/or as a charge to NGSs serving LVT customers in the form of a future discount on purchased receivables (at least 1% until the remaining costs are recovered). (Order at 14.) The Joint Petition also provides that PECO is authorized to defer any unrecovered implementation costs (and any associated depreciation), without interest, until the first distribution rate case following implementation of the POR when a recovery mechanism is provided for. (Order at 14-15.) In approving these cost recovery provisions, the Commission rejected Exceptions filed by the Office of Trial Staff ("OTS") that argued a higher discount rate (5%) should be used to avoid "fully subsidizing" NGSs. (Order at 36-39).

PECO believes the approved cost recovery provisions are in the public interest because they appropriately support the development of retail competition. The use of a modest NGS receivables discount will ensure that suppliers are contributing to the costs of the Gas POR Program. The deferral mechanism ensures that PECO will recover implementation costs associated with this voluntary program with a return on capital costs, but also provides flexibility to assign those costs either to NGSs or LVT customers when the actual costs are known and further reduced through the POR discount.

PECO acknowledges that its Gas POR Program is not entirely consistent with the newly proposed POR regulations at 52 Pa. Code § 62.224. Because the Gas POR Program does not

² See the Commission's Opinion and Order ("Order") at 14, which was entered on November 8, 2010.

have a defined length of term, the Company would be required to implement significant conforming changes within 36 months of the effective date of the new regulations, including changes that would preclude the possibility of recovering incremental implementation costs from LVT customers through base rates. *See* 52 Pa. Code § 62.224. The incremental costs to implement a POR program in conformity with the proposed regulations could be significant. Consequently, if such incremental implementation costs must be recovered by a discount to purchased receivables, the discount could be so large that it would not be economically feasible for NGSs to participate in the POR program at all. In its September 9, 2010 comments, PECO requested that the proposed regulations provide flexibility regarding cost recovery, and not mandate the use of a discount. (Comments at 4). PECO renews its request for flexibility in these comments, and respectfully submits that it should not be forced now to unravel an already approved program that is based on a meaningful, Commission-sanctioned, settlement between diverse parties.

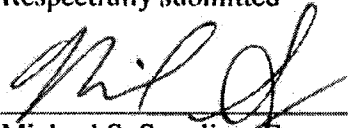
Should the Commission determine that PECO must make some conforming changes in light of the new regulations, PECO believes that the implementation cost recovery component of the Gas POR Program should remain unchanged because it provides needed flexibility in light of current shopping levels in PECO's territory.

III. Conclusion

It is PECO's position that the Commission's Revised Final Order will unfairly shift costs to non-shopping customers, make the PTC confusing and volatile for customers, and conflict with PECO's Commission approved "zero discount" POR program.

Dated: August 17, 2011

Respectfully submitted



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