**PENNSYLVANIA**
**PUBLIC UTILITY COMMISSION**
**Harrisburg, PA 17120**

Public Meeting held November 7, 2024

Commissioners Present:

Stephen M. DeFrank, Chairman
Kimberly Barrow, Vice Chair, Dissenting
Kathryn L. Zerfuss, Dissenting
John F. Coleman, Jr.
Ralph V. Yanora

Petition of PECO Energy Company for Approval of Its Default Service Program for the Period From June 1, 2025, Through May 31, 2029 — P-2024-3046008

**OPINION AND ORDER**

## Table of Contents


I. Introduction and Background ..... 2
II. History of the Proceeding ..... 3
III. Public Input Hearings ..... 6
IV. Legal Standards ..... 7
A. Burden of Proof ..... 7
B. Default Service ..... 8
C. Settlements ..... 9
V. The Non-Unanimous Settlement ..... 10
A. Terms and Conditions of the Non-Unanimous Settlement ..... 10
B. Positions of the Parties ..... 28
1. Non-Unanimous Settlement ..... 28
2. RESA and NRG Objections ..... 30
a. Issues Related to the Non-Unanimous Settlement ..... 30
(1) Default Service Procurement and Implementation Plans ..... 30
(a) Capacity Proxy Price ..... 30
(b) AEPS Compliance ..... 33
(2) Rate Design and Cost Recovery ..... 36
(a) Adjustment of Default Service Rates ..... 36
(b) Time of Use Rates ..... 37
(3) Standard Offer Program ..... 43
(4) Bill Format ..... 48
b. RESA Proposals Regarding Retail Competition Issues ..... 51
(1) Statewide Investigation of Default Service ..... 51
(2) PECO Customer Information System Upgrade ..... 54
C. Recommended Decision ..... 56
1. Capacity Proxy Price ..... 57
2. AEPS Compliance ..... 57
3. Adjustment of Default Service Rates ..... 58
4. Time of Use Rates ..... 58

5. Standard Offer Program ..... 59
6. Bill Format ..... 60
7. Statewide Investigation of Default Service Messaging ..... 60
8. PECO Customer Information System Upgrade ..... 61
D. Exceptions, Reply Exceptions, and Dispositions ..... 61
1. RESA's Exception No. 5, Replies, and Disposition ..... 62
2. RESA's Exception No. 6, Replies, and Disposition ..... 65
3. RESA's Exception No. 7, Replies, and Disposition ..... 67
4. RESA's Exception No. 8, Replies, and Disposition ..... 69
5. RESA's Exception No. 4, NRG's Exception No. 2, Replies, and Disposition ..... 71
6. RESA's Exception No. 3, NRG's Exception No. 1, Replies, and Disposition ..... 81
7. RESA's Exception No. 1, NRG's Exception No. 3, Replies, and Disposition ..... 85
8. RESA's Exception No. 2, NRG's Exception No. 4, Replies, and Disposition ..... 88
VI. Conclusion ..... 90

**BY THE COMMISSION:**

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition are the Exceptions of the Retail Energy Supply Association (RESA) and NRG Energy, Inc. (NRG), filed on September 10, 2024, to the Recommended Decision (R.D.) of Administrative Law Judges (ALJs) Eranda Vero and Arlene Ashton, issued on September 3, 2024, in the above-captioned proceeding. The Recommended Decision approved, without modification, the Joint Petition for Non-Unanimous Settlement (Joint Petition or Non-Unanimous Settlement), filed by PECO Energy Company (PECO or the Company), the Office of Consumer Advocate (OCA), the Office of Small Business Advocate (OSBA), the Tenant Union Representative Network and Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (collectively, TURN/CAUSE-PA), and the Energy Justice Advocates (EJA)[1] (collectively, the Joint Petitioners or Settling Parties) in this matter.[2] Replies to Exceptions were filed on September 16, 2024 by PECO, the OCA, TURN/CAUSE-PA, Calpine, and PAIEUG.

For the reasons stated, *infra*, we shall: (1) grant, in part, and deny, in part, the Exceptions of RESA and NRG; (2) modify the Recommended Decision of the ALJs; and (3) approve the Joint Petition for Non-Unanimous Settlement, as modified, consistent with this Opinion and Order.

---

[1] The EJA consists is of the following parties: POWER Interfaith, Vote Solar, Clean Air Council, Sierra Club, Physicians for Social Responsibility Pennsylvania, and PennEnvironment.

[2] The Joint Petition was not opposed by Calpine Retail Holdings, Inc. (Calpine), Constellation Energy Generation, LLC and Constellation NewEnergy Inc. (collectively Constellation), or the Philadelphia Area Industrial Energy Users Group (PAIEUG). However, the Joint Petition was opposed by RESA and NRG.

## I. Introduction and Background

PECO is a corporation organized and existing under the laws of the Commonwealth of Pennsylvania with its principal corporate office located in Philadelphia, Pennsylvania. PECO provides electric distribution service to approximately 1.7 million retail customers in Southeastern Pennsylvania. PECO's electric delivery service territory falls entirely within the area served by PJM Interconnection, LLC (PJM). Petition at 3; PECO Exh. SD-4 at 2. PECO is a public utility as that term is defined in Section 102 of the Public Utility Code (Code), 66 Pa.C.S. § 102, and serves as an electric distribution company (EDC) and a default service provider as those terms are defined in Section 2803 of the Code, 66 Pa.C.S. § 2803.

PECO is obligated to arrange for and provide electric generation service (default service) to all customers within its service territory who do not select an electric generation supplier (EGS) or who return to default service after being served by an EGS that becomes unable or unwilling to serve. PECO St. 1 at 4. PECO is required to file a default service plan with the Commission that sets forth how it will meet its default service obligations, including a strategy for procuring generation supply, a schedule for implementation, and a rate design to recover PECO's reasonable costs. *See*, 66 Pa.C.S § 2807(e)(3.6). PECO's current default service program (DSP) was approved by the Commission on December 3, 2020. *See, 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 (Opinion and Order entered December 3, 2020) (PECO DSP V). Thus, the PECO DSP V expires on May 31, 2025.

In this proceeding, PECO seeks approval of its sixth Default Service Program (DSP VI or Program), as modified by the Joint Petition. In its originally filed DSP VI, PECO requested that the Commission: (1) approve its DSP VI, 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 generation service from an EGS or who contract for energy with an EGS which is not delivered; (2) approve the Company's proposal to solicit additional ten-year contracts for solar alternative energy credits (AECs) to satisfy the requirements of Pennsylvania's Electricity Generation Customer Choice and Competition Act (Competition Act), 66 Pa.C.S. §§ 2801-2815, as amended by Act 129 of 2008 ("Act 129"), and the Alternative Energy Portfolio Standards Act, 73 P.S. §§ 1643.1 *et seq*. (AEPS or AEPS Act); (3) approve NERA Economic Consulting, Inc. (NERA) to continue as the independent third-party evaluator for PECO's default supply procurements; (4) approve PECO's proposed default service rate design, including PECO's 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); (5) grant a waiver of the rate design provisions of 52 Pa. Code § 54.187, to the extent necessary; (6) find that the PECO DSP VI includes prudent steps necessary to negotiate favorable generation supply contracts; (7) find that the PECO DSP VI includes prudent steps necessary to obtain least-cost generation supply on a long-term, short-term and spot market basis; (8) find that PECO has not withheld from the market any generation supply in a manner that violates federal law; (9) approve continuation of PECO's existing EGS Standard Offer Program (SOP), including the associated cost recovery mechanism approved in PECO's prior default service proceedings; and (10) approve PECO's proposed bill format changes to enhance the transparency of shopping information for the Company's residential customers. Petition at 1-2.

## II. History of the Proceeding

On February 2, 2024, PECO filed its Petition requesting that the Commission approve the PECO DSP VI (Petition), as described, *supra*. PECO filed the Petition in accordance with its default service provider responsibilities for the period from June 1, 2025, through May 31, 2029, following the expiration of the PECO DSP V.

The Petition was filed pursuant to 66 Pa.C.S. § 2807, the Commission's Default Service Regulations at 52 Pa. Code §§ 54.181-190, and the Commission's Policy Statement on Default Service at 52 Pa. Code §§ 69.1801-1817. Petition at 1. The applicable statute requires that the Commission issue its decision on this matter no later than nine months after the filing date of the proposed DSP, or in this case on or before November 2, 2024.[3] 66 Pa.C.S. § 2807(e)(3.6). Concurrently, PECO filed the supporting data required by 52 Pa. Code § 53.52. PECO St. 2 at 2; PECO Exh. MAM-7.

Notice of PECO's Petition and Prehearing Conference was published in the *Pennsylvania Bulletin* on February 17, 2024. *See,* 54 Pa.B. 881 (Feb. 17, 2024). R.D. at 3.

On March 14, 2024, the ALJs granted a Protective Order proposed by PECO. R.D. at 4.

The ALJs' Prehearing Order #2, issued on April 2, 2024, indicated that the parties of record in this proceeding include: PECO, the OCA, the OSBA, PAIEUG, Calpine, NRG, RESA, EJA, TURN/CAUSE-PA, and Constellation.

Public Input Hearings were held via teleconference on April 16, 2024, and in person on April 18, 2024. R.D. at 7.

On June 5, 2024, the Parties filed a Joint Stipulation for Admission of Testimony and Exhibits (Joint Stipulation) stipulating that the Statements and Exhibits listed therein should be admitted into the record in this proceeding and that each of them

[3] As noted below, PECO advised that it agreed to a voluntary extension of the statutory deadline from November 2, 2024 to November 18, 2024. R.D. at 6.

waived cross-examination of the witnesses whose testimony was included therein. R.D at 5.

On June 26, 2024, PECO filed a letter with the Commission agreeing to a voluntary extension of the nine-month statutory deadline for this proceeding from November 2, 2024, to November 18, 2024. R.D. at 6.

On July 10, 2024, the Joint Petitioners filed the Non-Unanimous Settlement with the Commission to which the Settling Parties agreed to a default service program consistent with PECO's Petition, as modified (Revised DSP VI), along with Statements in Support of the Joint Petition. As noted above, the Joint Petition was filed on behalf of PECO, the OCA, the OSBA, TURN/CAUSE-PA, and EJA. In addition, the Joint Petition represented that Calpine, Constellation, and PAIEUG did not oppose the Non-Unanimous Settlement. Furthermore, the Joint Petition indicated that RESA and NRG were opposed to the Non-Unanimous Settlement. R.D. at 6.

Main Briefs were filed by PECO, the OCA, PAIEUG, RESA, and NRG on July 17, 2024. Also, on July 17, 2024, American Power & Gas of Pennsylvania, LLC (AP&G) filed an *Amicus Curiae* Brief to the Commission. Reply Briefs were filed on July 31, 2024, by PECO, the OCA, RESA, TURN/CAUSE-PA, and Calpine. R.D. at 6.

The record in this proceeding consists of: (1) a 487-page transcript; (2) the Joint Stipulation, with attachments; (3) the Statements and Exhibits of the Parties; (4) the Joint Petition, with attachments; and (5) the Main Briefs, *Amicus Curiae* Brief, and Reply Briefs, discussed, *infra*. The record closed on July 31, 2024. R.D. at 6-7.

On September 3, 2024, the Commission issued the Recommended Decision of ALJs Vero and Ashton. Therein, the ALJs recommended that: (1) the Joint Petition be granted, and the Non-Unanimous Settlement be approved, without modification; (2) the

proposals made by RESA and NRG, in objection to the Non-Unanimous Settlement, be denied; and (3) PECO's Revised DSP VI be approved, as modified by the Non-Unanimous Settlement. R.D. at 1-2, 113.

As previously noted, RESA and NRG each filed Exceptions to the Recommended Decision on September 10, 2024. PECO, the OCA, TURN/CAUSE-PA, Calpine, and PAIEUG filed Replies to Exceptions on September 16, 2024.

## III. Public Input Hearings

As noted above, in the History of Proceeding, Public Input Hearings were held via teleconference on April 16, 2024, and in person on April 18, 2024, at which a total of eighty (80) witnesses testified. The "climate crisis" and the need to address the impact of climate change was a primary motivation for witnesses appearing at the Public Input Hearings. The testimony presented by witnesses criticized PECO's proposed DSP and supported PECO's procurement of electricity supply with renewable energy sources through long-term contracts. The witnesses argued that these measures would result in more affordable electric service for the vast majority of PECO's customers. In addition, they argued that these measures would address the negative impacts of climate change affecting PECO's customers and the community at large. R.D. at 7.

A detailed summary of the Public Input Hearings is incorporated herein by reference. R.D. at 8-15.

## IV. Legal Standards

### A. Burden of Proof

In this proceeding, the Company seeks approval of its plan to procure default service supply and, as such, has the burden of proving that its proposed DSP VI complies with the legal requirements. The proponent of a rule or order in any Commission proceeding bears the burden of proof, 66 Pa.C.S. § 332(a), and therefore, the Company has the burden of proving its case by a preponderance of the evidence. *Samuel J. Lansberry, Inc. v. Pa. PUC*, 578 A.2d 600 (Pa. Cmwlth. 1990), *alloc. denied*, 602 A.2d 863 (Pa. 1992). That is, the Company's evidence must be more convincing, by even the smallest amount, than the evidence presented by the other parties. *Se-Ling Hosiery, Inc. v. Margulies*, 70 A.2d 854 (Pa. 1950).

Additionally, this Commission's decision must be supported by substantial evidence in the record. More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. *Norfolk & Western Ry. Co. v. Pa. PUC,* 413 A.2d 1037 (Pa. 1980).

Upon the presentation by a utility of evidence sufficient to initially satisfy the burden of proof, the burden of going forward with the evidence to rebut the evidence of the utility shifts to the other parties. If the evidence presented by the other parties is of co-equal value or "weight," the burden of proof has not been satisfied. The Company now has to provide some additional evidence to rebut that of the other parties. *Burleson v. Pa. PUC*, 443 A.2d 1373 (Pa. Cmwlth. 1982), *aff'd*, 461 A.2d 1234 (Pa. 1983).

While the burden of going forward with the evidence may shift back and forth during a proceeding, the burden of proof never shifts. The burden of proof always remains on the party seeking affirmative relief from the Commission. *Milkie v. Pa. PUC*,

768 A.2d 1217 (Pa. Cmwlth. 2001). However, a party that offers a proposal in addition to what is sought by the original filing bears the burden of proof for such a proposal. *Pa. PUC, et al. v. Metropolitan Edison Co.*, Docket No. R- 00061366C0001 (Order entered January 11, 2007); *Joint Default Service Plan for Citizens' Electric Co. of Lewisburg, PA and Wellsboro Electric Company for the Period of June 1, 2010 through May 31, 2013 (Citizens' Electric Co.)*, Docket Nos. P-2009-2110798 and P-2009-2110780 (Order entered February 26, 2010).

**B. Default Service**

The Competition Act requires that default service providers acquire electric energy through a "prudent mix" of resources that are designed to: (i) provide adequate and reliable service; (ii) provide the least cost to customers over time; and (iii) achieve these results through competitive processes that include auctions, requests for proposals, and/or bilateral agreements. 66 Pa.C.S. §§ 2807(e)(3.1), (3.4).

The Competition Act also mandates that customers have direct access to a competitive retail generation market. 66 Pa.C.S. § 2802(3). This mandate is based on the legislative finding that "[c]ompetitive market forces are more effective than economic regulation in controlling the cost of generating electricity." 66 Pa.C.S. § 2802(5). *See, Green Mountain Energy Company v. Pa. PUC,* 812 A.2d 740, 742 (Pa. Cmwlth. 2002). Thus, a fundamental policy underlying the Competition Act is that competition is more effective than economic regulation in controlling the costs of generating electricity. 66 Pa.C.S. § 2802(5).

In addition to the foregoing statutory guidelines, the Commission has enacted default service Regulations, 52 Pa. Code §§ 54.181 to 54.190, and a Policy Statement, 52 Pa. Code §§ 69.1801 to 69.1817, addressing DSPs. The Regulations first became effective in 2007 and were amended in 2011 to incorporate the Act 129

amendments to the Competition Act. *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) (*Act 129 Final Rulemaking Order*). The Commission has directed that EDCs consider the incorporation of certain market enhancement programs into their DSPs in order to foster a more robust retail competitive market. *Investigation of Pennsylvania's Retail Electricity Market: Recommendations Regarding Upcoming Default Service Plans,* Docket No. I-2011-2237952 (Order entered December 16, 2011) (*RMI IWP Tentative Order*), and *Intermediate Work Plan* (Final Order entered March 2, 2012) (*RMI IWP Final Order*).

## C. Settlements

This Commission has a policy of encouraging settlements. *See*, 52 Pa. Code § 5.231(a); *see also*, 52 Pa. Code §§ 69.401, *et seq*., relating to settlement guidelines for major rate cases, and our Statement of Policy relating to the Alternative Dispute Resolution Process, 52 Pa. Code § 69.391, *et seq.* This Commission has stated that results achieved through settlement are often preferable to those achieved at the conclusion of a fully litigated proceeding. 52 Pa. Code § 69.401. A full settlement of all the issues in a proceeding eliminates the time, effort, and expense that otherwise would have been used in litigating the proceeding, while a partial settlement may significantly reduce the time, effort and expense of litigating a case. A settlement, whether whole or partial, benefits not only the named parties directly, but, indirectly, all customers of the public utility involved in the case.

Default service proceedings are expensive to litigate, and the reasonable cost of such litigation is an expense recovered from customers by default service providers as approved by the Commission. Partial or full, as well as non-unanimous or unanimous, settlements allow the parties to avoid the substantial costs of fully litigating a proceeding before the Commission, yielding expense savings for a company's customers.

For this and other sound reasons, settlements are encouraged by long-standing Commission policy.

Despite the policy favoring settlements, the Commission does not simply rubber stamp settlements without further inquiry. In order to accept a settlement such as that proposed here, the Commission must determine that the proposed terms and conditions are in the public interest. *Pa. PUC v. York Water Co.*, Docket No. R-00049165 (Order entered October 4, 2004); *Pa. PUC v. C. S. Water and Sewer Assoc.*, 74 Pa. P.U.C. 767 (1991). The Joint Petitioners have reached a Non-Unanimous Settlement that resolves all issues among the Settling Parties in this proceeding. Because the Joint Petitioners request that the Commission enter an order in this proceeding approving the Non-Unanimous Settlement without modification, they share the burden of proof to show that the terms and conditions of the Non-Unanimous Settlement are in the public interest. *See*, 66 Pa.C.S. § 332(a).

## V. The Non-Unanimous Settlement

### A. Terms and Conditions of the Non-Unanimous Settlement

The Joint Petitioners have agreed to the Non-Unanimous Settlement, which resolves all issues among the Settling Parties. The Joint Petition consists of a twenty-five (25) page document outlining the terms and conditions of the Non-Unanimous Settlement, eight (8) Exhibits, and five (5) Statements in Support of the Non-Unanimous Settlement. *See* R.D. at 16. The following exhibits regarding PECO's Revised DSP VI were attached to the Joint Petition:

| | |
|---|---|
| Exhibit A | Reserved |
| Exhibit B | Revised Default Service Program Request for Proposals |
| Exhibit C | Revised Request for Proposal (RFP) Protocol |

| | |
|---|---|
| Exhibit D | Revised Electric Service Tariff (Relevant Pages) |
| Exhibit E | Revised Electric Service Tariff (Redline) |
| Exhibit F | EGS Coordination Tariff (Relevant Pages) |
| Exhibit G | EGS Coordination Tariff (Redline) |
| Exhibit H | PECO's Revised Residential Bill Format Change |

In addition, the following Statements in Support of the Non-Unanimous Settlement were attached to the Joint Petition:

| | |
|---|---|
| Statement A | Statement in Support of PECO |
| Statement B | Statement in Support of the OCA |
| Statement C | Statement in Support of the OSBA |
| Statement D | Statement in Support of the EJA |
| Statement E | Statement in Support of TURN/CAUSE-PA |

*See*, R.D. at 16.[4]

The essential terms of the Joint Petition for Non-Unanimous Settlement are set forth in Section II of the Joint Petition, in Paragraph Nos. 12 through 71. Joint Petition at 4-20. The essential terms are set forth below and are printed *verbatim*, and for ease of reference, maintain the paragraph numbers and formatting that appear in the Non-Unanimous Settlement.

[4] As noted above and discussed in detail, *infra,* only RESA and NRG objected to the Non-Unanimous Settlement.

## TERMS AND CONDITIONS OF SETTLEMENT

12. The Settlement consists of the following terms and conditions:

### A. Procurement Plan

13. The Joint Petitioners agree that the DSP VI Program shall be in effect for a period of four years, from June 1, 2025 through May 31, 2029.

14. PECO's default service customers shall be divided into the same three classes for purposes of default service procurement as those established in DSP V: the Residential Class, the Small Commercial Class, and the Consolidated Large Commercial and Industrial ("C&I") Class.

15. The Residential Class includes all residential customers currently receiving service under PECO rate schedules R and RH.

16. The Small Commercial Class includes customers with annual peak demands of up to and including 100 kW served under rate schedules GS, PD, and HT plus lighting customers on schedules AL, POL, SLE, SLS, SLC, and TLCL.

17. The Consolidated Large C&I Class includes customers with annual peak demands greater than 100 kW on rate schedules GS, HT, PD, and EP.

#### (1) Residential Class

18. For the Residential Class, PECO will continue to procure a mix of one-year (approximately 38%) and two-year (approximately 61%) fixed-price full requirements ("FPFR") contracts, with six months spacing between the commencement of contract delivery periods. During the Revised DSP VI period, the remaining approximately 1% of Residential Class load will be supplied directly by PJM's spot energy, capacity and ancillary services markets offset by the

long-term solar procurement discussed in Paragraphs 20-25 below.

19. Suppliers will bid in a competitive, sealed-bid request for proposals ("RFP") process on "tranches" corresponding to a percentage of the actual Residential default service customer load. Winning suppliers will be obligated to supply full requirements load-following service, which includes energy, capacity, ancillary services, and all other services or products necessary to serve a specified percentage of PECO's default service load in all hours during the supply product's delivery period.5[5] The full requirements product requires the supplier to provide PECO all necessary AECs described in Paragraph 36, infra, for compliance with Pennsylvania's Alternative Energy Portfolio Standards ("AEPS") Act, 73 P.S. § 1648.1 et seq. Each of the contracts will be procured approximately two months prior to the beginning of the applicable contract delivery period. As in DSP V, PECO will continue to nominate PJM Auction Revenue Rights ("ARRs") for the default service load. To facilitate selection and transfer of ARRs to wholesale default service suppliers, PECO will continue to employ a consultant for ARR analysis and selection.

20. The Joint Petitioners agree to the procurement terms and schedule for the Residential Class FPFR contracts set forth in PECO Exhibit No. SD-1.

21. During the DSP VI Term, PECO will also procure, through ten-year, fixed-price power purchase agreements ("Solar PPAs"), the energy, capacity and solar photovoltaic alternative energy credits ("AECs") generated by one or more new Pennsylvania solar photovoltaic projects with total capacity of up to 25 MW (DC) to meet the default service requirements of residential customers. The winning project(s) will be selected through a competitive procurement process in which PECO will seek 25 MW (DC) of solar capacity but will have flexibility to enter into agreements with

[5] PECO remains responsible for all distribution services to its default service customers. The assignment of responsibility for PJM transmission-related costs is discussed in Section II.E., *infra*.

multiple projects totaling 25 MW (DC) with a minimum project size of 5 MW (DC).

22. PECO will issue a request for proposals ("Solar RFP") by the second quarter of 2025 in order to conduct the procurement in the third quarter of 2025. A proposed project will be considered to be "new" for purposes of PECO's procurement if the project has not commenced the delivery of electric generation to any entity and its construction has not been completed as of the date project proposals are due under the RFP.

23. If the procurement does not result in a total contracted capacity of 25 MW (DC), PECO will conduct a second procurement within six to 12 months of the first procurement; provided, however, that if the capacity that was not contracted is less than 10 MW (DC), PECO shall have sole discretion whether to conduct a second procurement for that capacity. All costs of the first and (if necessary) the second procurement shall be considered a cost of generation supply for the default service residential class. PECO will publish the winning price ($/MWh) and capacity (MW) of the executed PPA (or if more than one PPA is executed, the capacity of each PPA (MW) and the weighted average winning price ($/MWh)) that is approved by the Commission. NERA Economic Consulting ("NERA") will serve as the Independent Evaluator for PECO's solar procurement.

24. The energy generated by the selected project(s) will be used to offset the spot purchases for the residential customer class as proposed under DSP VI and the AECs from the project will be used to meet residential class AEPS requirements. This solar energy procurement would be in place of the Company's proposed increase in solar alternative energy credit procurement via long-term contracts.

25. PECO shall submit the Solar RFP and PPA to the Commission for approval within forty-five (45) days of a Commission order approving the Settlement after conferring in good faith with the Joint Petitioners regarding the terms of the Solar RFP and PPA, which shall be substantially similar to the solar request for proposals and power purchase agreement approved by the Commission in Docket No. P-2021-3030012.

The parties to this proceeding shall have the right to file comments on PECO's proposed Solar RFP and PPA within thirty (30) days after PECO's filing of the Solar RFP and PPA with the Commission.

**(2) Small Commercial Class**

26. The Small Commercial Class load will continue to be supplied by equal shares of one-year and two-year FPFR products. Each of the contracts for the Small Commercial Class will be procured through a competitive sealed-bid process in the same manner as FPFR products for the Residential Class approximately two months prior to delivery of energy under the contract.

27. The Joint Petitioners agree to the procurement terms and schedule for the Small Commercial Class FPFR contracts set forth in PECO Exhibit No. SD-1.

**(3) Consolidated Large Commercial and Industrial Class**

28. For its Consolidated Large C&I Class, PECO will continue to solicit twelve-month hourly-priced full requirements products, without overlap, for all default service supply. In order to improve participation and the number of bids competing to serve this customer class, the load cap will be increased from 50% to 75%.

29. PECO will procure default service supply for the Consolidated Large C&I Class annually as shown on PECO Exhibit No. SD-1.

## B. Default Service Implementation Plan and Independent Evaluator

30. The Joint Petitioners agree to the form of the Supplier Master Agreement ("SMA") that PECO will execute with wholesale suppliers that are successful bidders in PECO's default service supply procurements set forth in PECO Exhibit No. SD-2.

31. The Joint Petitioners agree to the following changes to SMA approved by the Commission in the DSP V proceeding: (1) inclusion of new Appendix I that enables market participants subject to the regulations issued by the Board of Governors of the Federal Reserve System (12 C.F.R. §§ 252.2, 252.81-88), the Federal Deposit Insurance Corporation (12 C.F.R. §§ 382.1-7) and the Office of the Comptroller of the Currency (12 C.F.R. §§ 47.1-8) to participate in the Company's default service solicitations; (2) revisions to introduce a capacity proxy price ("CPP") and true-up discussed in Paragraph 32 below.

32. Effective June 1, 2025, the Joint Petitioners agree that if PJM does not conduct its Base Residual Auction ("BRA") for capacity in time for default service suppliers to incorporate the auction results into their bids, the CPP will be the average of the most recent results under PJM's Reliability Pricing Model ("RPM") from the two most recent delivery years for which PJM has held a capacity auction. Commencing at the start of the delivery year for which the BRA results were not known, winning suppliers will be debited or credited (as applicable) any differences between the CPP and the actual PJM capacity price.

33. PECO agrees to withdraw its reserve price proposal. This withdrawal is made without prejudice to propose this price stability protection in future default service proceedings.

34. The Joint Petitioners agree to the Requests for Proposals ("RFP") for PECO's competitive sealed-bid solicitations and the RFP protocol set forth in Exhibits B and C hereto. Exhibits B and C are revised versions of PECO Exhibit Nos. KO-1 and KO-2, respectively, to reflect withdrawal of PECO's reserve price proposal under the Settlement.

35. PECO will again appoint NERA as the third-party independent evaluator for PECO's default service procurements, in addition to the new solar procurement.

## C. Alternative Energy Portfolio Standards ("AEPS") Act Compliance

36. Under the SMA, as in DSP V, PECO will continue to require each full requirements default service supplier to transfer Tier I (including solar photovoltaic) and Tier II AECs to PECO corresponding to PECO's AEPS obligations associated with the amount of default service load served by that supplier. In addition, PECO will continue to allocate AECs obtained through its separate solar procurements to suppliers in accordance with the percentage of load served by each supplier. PECO will retain any portion of its AEC inventory to meet AEPS obligations not provided for by fixed-price full requirements suppliers, and procure any additional required AECs through PECO's Tier I and Tier II "balancing" procurements previously authorized by the Commission. As described above, the AECs from the Solar PPAs will be used to meet the AEPS requirements associated with the spot portion of residential default service load served by PECO.

## D. Contingency Plans

### (1) Full Requirements

37. PECO will continue utilizing the contingency plans approved in prior default service programs. Specifically, in the event PECO fails to obtain sufficient approved bids for all offered tranches for a product in a solicitation, the unfilled tranches will be included in PECO's next default supply solicitation for that product. PECO will supply any unserved portion of its default service load from the PJM-administered markets for energy, capacity and ancillary services.

38. If a supplier default occurs within a reasonable time before a scheduled procurement, the load served by the defaulting supplier will be incorporated into that next procurement. Otherwise, PECO will file a plan with the Commission proposing alternative procurement options and a request for approval on an expedited basis.

### (2) AEPS Requirements

39. PECO will issue the Solar RFP by the second quarter of 2025 in order to conduct the procurement in the third quarter of 2025. As described in paragraph 23, if this procurement does not result in a total contracted capacity of 25 MW (DC), PECO will conduct a second procurement within six to twelve months of the first procurement; provided, however, that if the capacity that was not contracted is less than 10 MW (DC), PECO shall have sole discretion whether to conduct a second procurement for that capacity. In the event these procurements are not successful, there will be no shortfall in AECs necessary in light of the obligation of full requirements suppliers to deliver AECs and PECO's existing authority to obtain any additional required AECs through PECO's Tier I and Tier II "balancing" procurements previously authorized by the Commission.

## E. Rate Design And Cost Recovery

### (1) Generation Supply Adjustment

40. PECO will continue to recover the cost of default service from default service customers through the Generation Supply Adjustment ("GSA") and Transmission Service Charge ("TSC") consistent with DSP V. For the Residential and Small Commercial customer classes, default service rates established pursuant to the GSA will change semi-annually instead of quarterly and over/undercollections of default service costs will continue to be reconciled on a semi-annual basis. Such rates will continue to recover: (1) generation costs, certain transmission costs and ancillary service costs established through PECO's competitive procurements; (2) supply management, administrative costs (including costs incurred to implement Commission-approved retail enhancement programs) and working capital, as provided in 52 Pa. Code § 69.1808; and (3) applicable taxes. The projected GSA will be filed by PECO on June 1 and December 1 of each year. The GSA and TSC form the basis of the Price-to-Compare ("PTC") that customers may use to evaluate competitive generation service offerings.

41. PECO's default service rates for the Consolidated Large C&I will also continue to be charged through the GSA. For those customers, default service rates will continue to be based upon the price paid to winning suppliers in PECO's hourly-priced service procurements, which includes the PJM day-ahead hourly locational marginal price ("LMP") for the PJM PECO Zone, plus associated costs, such as capacity, ancillary services, PJM administrative expenses and costs to comply with AEPS requirements that are incurred to provide hourly-priced service. The Joint Petitioners agree that PECO will continue to file the Hourly Pricing Adder on a quarterly basis.

42. The default service rates for the Large Commercial and Industrial Class also include a reconciliation component to refund or recoup GSA over/under collections from prior periods. The Joint Petitioners agree that over/under collections of default service costs for the Consolidated Large C&I Class will continue to be reconciled on a semi-annual basis instead of a monthly basis.

43. PECO shall be permitted to file the GSA and Reconciliation tariff pages set forth in Exhibits D and E to the Joint Petition to become effective as of June 1, 2025. Exhibits D and E are revised versions of PECO Exhibit Nos. MAM-1 and MAM-2, respectively, to reflect the tariff changes set forth in this Settlement.

**(2) Recovery of Certain PJM Charges**

44. Wholesale suppliers will continue to be responsible for those PJM bill line items specified in the SMA.

45. PECO will continue to be responsible for and recover the following PJM charges from all distribution customers in PECO's service area through its Non-Bypassable Transmission Charge: 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).

### (3) Time-of Use Rates

46. During DSP VI, PECO will continue its current Commission-approved TOU default service rate options for eligible customers in PECO's Residential and Small Commercial procurement classes to comply with PECO's obligation under Act 129 of 2008 ("Act 129") to offer TOU and real-time rates to all default service customers with smart meters.[6]

47. PECO will perform a one-time evaluation of the Company's current TOU rate structure and present the results in its next default service filing. PECO's evaluation will include an assessment of enrollment rates and customer characteristics conducted through a voluntary email survey of all participating TOU customers (e.g., income, air conditioning, rooftop solar and electric vehicles ownership, etc.). The survey will include questions regarding whether customers would prefer an incentive-based program which PECO will use to inform the Company on whether to consider proposing incentive-based time varying rates in future proceedings. Additionally, PECO's evaluation will include an analysis of seasonal variation in the calculation of the TOU multipliers.

#### (i) TOU Product Structure and Rate Design

48. PECO's TOU rates will differentiate prices across three usage periods that are constant throughout the year as shown in Table 1 below.

[6] 66 Pa.C.S. §§ 2807(f)(5). The hourly-priced default service rate for the Consolidated Large C&I Class already meets Act 129 requirements.

**Table 1**

| TOU Pricing Period | Year-Round Days/Hours Included |
|---|---|
| Peak | 2 p.m. – 6 p.m.<br><br>Monday Through Friday, excluding PJM holidays |
| Super Off-Peak | Midnight (12 a.m.) – 6 a.m.<br><br>Every day |
| Off-Peak | All other hours |

These TOU pricing periods will be identical for the Residential and Small Commercial Classes.

49. PECO's TOU price multipliers will continue to reflect the ratios calculated from average PJM PECO zone spot market prices as well as allocation of the cost of capacity to peak and off-peak hours only.

50. PECO will continue to review its TOU multipliers on an annual basis, using a rolling five years of historical PJM Day-Ahead Spot Market Pricing energy data and Reliability Pricing Model capacity pricing data for the PECO Zone. PECO will only update the applicable TOU pricing multipliers if the use of such data would result in no more than a 10% change from the prior-year's TOU pricing multipliers. If the price multiplier change would exceed 10%, the applicable pricing multipliers will be changed by exactly 10%.

51. PECO's TOU pricing multipliers effective June 1, 2023 through May 31, 2024 are shown in Table 2 below. The updated multipliers for the first year of DSP VI will be reflected in PECO's GSA filing 45 days before June 1, 2025.

**Table 2**

| TOU Pricing Period | GSA-1 TOU Pricing Multipliers* | GSA-2 TOU Pricing Multipliers* |
|---|---|---|
| Peak | 7.21 | 5.56 |
| Super Off-Peak | 1 | 1 |
| Off-Peak | 1.46 | 1.55 |

*Ratio to Super Off-Peak TOU price

52. PECO will source both the standard and TOU default service for residential and small commercial customers from the same supply portfolio for each procurement class. PECO will use the standard default service GSA as the reference price for PECO's TOU rate calculations.

53. PECO will calculate the TOU rates on a semi-annual basis, synchronized with the GSA adjustment periods as agreed to in this Settlement for the Residential and Small Commercial Classes, using the pricing methodology set forth in PECO Exhibit No. MAM-5. TOU customer kWh sales and costs will be included in the semi-annual reconciliation of the over/undercollection component of the GSA for the entire procurement class (i.e., Residential or Small Commercial).

**(ii) Customer Eligibility**

54. PECO's TOU rates will be available to residential and small commercial default service customers with smart meters configured to measure energy consumption in watt-hours. However, customers enrolled in the Company's Customer Assistance Program ("CAP") will not be eligible for the residential TOU rate during the Revised DSP VI term to avoid potential adverse impacts on CAP benefits.

55. Eligible default service customers may enroll in PECO's TOU Rates online or through the Company's care center. Participating customers will remain on the TOU rate until they affirmatively elect to return to PECO's standard default service rate, switch to an EGS or otherwise become ineligible.

56. Customers who select the TOU rate may leave at any time without incurring related penalties or fees. However, if those customers subsequently leave the TOU Rate for any reason, they may not re-enroll for twelve billing months after switching off the TOU Rate.

**(iii) Implementation Plan and Cost Recovery**

57. PECO will continue to use the communications plan approved in the DSP V proceeding to inform customers about TOU rates and update enrolled TOU customers about the opportunity for bill savings. This plan includes a webpage dedicated to the TOU Rates, a variety of other customer education materials, and monthly e-mail communications to enrolled TOU customers.

58. PECO agrees to add the following disclosure to PECO's TOU webpage in the section titled, "Is Time-of-Use Pricing right for me?":

> (a) "If you are having trouble affording your electricity bill, PECO offers programs and services to help those in need. Contact PECO at 1-800-494-4000 for more information and to apply."

59. PECO agrees to, no less frequently than every six (6) months, attempt personal contact with confirmed low-income TOU customers to encourage those customers to enroll in PECO's CAP.

60. PECO agrees to continue to evaluate the impacts of the Company's TOU rates on confirmed low-income customers as part of the annual report required by Act 129.

61. To assist in the preparation of the annual report, PECO will continue to track TOU customers' income and demographic information (e.g., age, race, ethnicity and disability status). However, eligible customers who refuse to disclose this information will not be precluded from enrolling in PECO's TOU rates.

62. PECO will recover the costs to implement the new TOU rates from customers in the eligible procurement classes (i.e., the Residential and Small Commercial Classes) through the administrative cost factor of the GSA.

## F. Standard Offer Program

63. The currently-effective Standard Offer Program ("SOP"), including the cost recovery mechanisms last approved by the Commission in PECO's DSP V proceeding, will continue as modified by this Settlement until May 31, 2029, unless ordered by the Commission to be terminated sooner.

64. The Joint Petitioners agree that for all SOP contracts executed after June 1, 2025, EGSs must automatically transfer SOP customers to default service upon the expiration of the SOP contract unless the customer affirmatively elects to remain with the SOP supplier. PECO's Electric Generation Supplier Coordination Tariff ("Supplier Tariff") set forth in Exhibits F and G hereto has been updated to reflect this requirement. PECO will change its SOP scripting to inform all customers who enroll after June 1, 2025, that enrollment in an SOP contract under those terms will operate as consent to return to default service absent an affirmative decision to remain with the SOP supplier at the end of the term.

## G. Residential Customer Bill Improvements

65. The Joint Petitioners agree to adopt PECO's proposed Residential bill format change as modified by this Settlement, originally set forth in PECO Exhibit SD-6, adding a graphic to the first page of the residential customer bill that compares the customer's total supplier charges for the billing period with what the dollar amount of the charges would be under PECO's applicable PTC based on the customer's usage during the billing period.

66. The Joint Petitioners agree PECO should not include the third column of the new chart titled "Electric Supplier Savings" presenting the variance between the two-dollar amount figures as shown in Exhibit H hereto. Exhibit H

is a revised version of PECO Exhibit No. SD-6, to reflect the Residential bill format changes set forth in this Settlement.

## H. Access to PECO's CAP for Applicants with EGS Supply

67. Commencing with all EGS contracts with Residential customers executed after June 1, 2025, EGSs will not be permitted to charge early cancellation, termination, or other fees to any shopping customer that is transitioning into PECO's CAP. PECO's Supplier Tariff set forth in Exhibits F and G has been updated to reflect this restriction.

68. PECO agrees that by June 1, 2025, the Company will implement the following:

(a) PECO will add the following bullet point language to the CAP Follow-up Letter:[7]

> ▫ To enroll in CAP, you must return to default service and drop your generation supplier. Please call 1-800-774-7040 for assistance with this process.

(b) Upon contact from a CAP applicant who is enrolled with a generation supplier, PECO will assist the CAP applicant with removal of the generation supplier in order to return to default service once the Company has confirmed that the applicant qualifies for CAP. PECO will update its call center scripts to reflect this customer service practice.

(c) PECO will convene a stakeholder process to discuss modifications to its CAP application to inform CAP applicants that, upon submission of a CAP application, PECO is authorized to return the applicant to default service upon enrollment in CAP. PECO will include its modified CAP application with its filing in the next default service proceeding and support such proposed application becoming effective concurrent therewith.

---

[7] *See*, TURN/CAUSE-PA St. 1, Appendix B.

(d) PECO will track and report to its Universal Service Advisory Committee at least every six months the number of CAP applicants who were issued a "Customer Refuse to Drop Supplier" letter.[8]

69. Effective June 1, 2025, PECO will amend its CAP Welcome Letter to inform new CAP enrollees that generation suppliers are prohibited from charging them cancellation or termination fees, as well as providing instructions on how to file an informal complaint with the Commission if the supplier assesses such a fee.

**I. Request For Waivers**

70. The Commission's regulations (52 Pa. Code § 54.187) and Policy Statement (52 Pa. Code § 69.1805) provide that default service providers should design procurement classes based upon peak loads of 0-25 kW, 25-500 kW, and 500 kW and greater, but default service providers may propose to depart from these specific ranges, including to "preserve existing customer classes." If necessary, the Joint Petitioners respectfully request that the Commission grant PECO a waiver of 52 Pa. Code § 54.187 to allow PECO's procurement classes to be as delineated in Section II.A, *supra*.

71. To the extent necessary, the Joint Petitioners also respectfully request that the Commission grant PECO a waiver of 52 Pa. Code §§ 54.187(i) and (j) to allow PECO to continue quarterly filing of hourly-priced default service rates and semi-annual reconciliation of the over/under collection component of the GSA for all default service customers as explained in Section II.E., *supra*.

Joint Petition at 4-10, ¶¶ 12-71.

In addition to the specific terms set forth above, the Non-Unanimous Settlement contains certain additional general terms and conditions. The Joint Petitioners

[8] *See*, TURN/CAUSE-PA St. 1, Appendix B.

submitted that the Non-Unanimous Settlement is in the public interest and will provide substantial affirmative public benefits. Joint Petition at 20, ¶¶ 72-73. In addition, the Joint Petitioners asserted that the Settlement does not constitute an admission against, or prejudice to, any position which any of the Joint Petitioners might adopt during subsequent litigation of this case or any other case. Joint Petition at 21, ¶ 75. The Joint Petitioners also stated that the Non-Unanimous Settlement is conditioned upon the Commission's approval of the terms and conditions contained therein, without modification, and that the Non-Unanimous Settlement establishes a procedure by which any of the Settling Parties may withdraw from the Non-Unanimous Settlement and proceed to litigate this case, if the Commission should act to modify the Non-Unanimous Settlement. Joint Petition at 21-22, ¶ 77.

In view of the above, the Joint Petitioners requested that the Commission enter an Order: (1) approving the Non-Unanimous Settlement and PECO's DSP VI, as revised by the Non-Unanimous Settlement, including all terms and conditions thereof; (2) approving the selection of NERA Economic Consulting to continue as the third-party Independent Evaluator for PECO's default service procurements; (3) approving the selection of NERA Economic Consulting to serve as the third-party Independent Evaluator for PECO's long-term solar procurement; (4) finding that PECO's DSP VI, as revised by the Non-Unanimous Settlement, includes prudent steps necessary to negotiate favorable generation supply contracts; (5) finding that the Company's DSP VI, as revised by the Non-Unanimous Settlement, includes prudent steps necessary to obtain least cost generation supply contracts on a long-term, short-term, and spot market basis; (6) finding that neither PECO nor its affiliates have withheld from the market any generation supply in a manner that violates federal law; (7) finding that PECO's TOU rate options agreed to under the Non-Unanimous Settlement satisfy PECO's obligations under 66 Pa.C.S. § 2807(f)(5); (8) granting a waiver of the rate design provisions of 52 Pa. Code § 54.187, to the extent necessary, to permit PECO to continue to procure generation for three procurement classes, quarterly filing of hourly-priced default service rates and

semi-annual reconciliation of the over/under collection component of the GSA for all default service customers as set forth in PECO's Revised DSP VI; (9) authorizing the Electric Service Tariff and Supplier Tariff pages set forth in Exhibits D and F to the Non-Unanimous Settlement to become effective as of June 1, 2025; and (10) terminating the proceeding at Docket No. P-2024-3046008 following a Commission decision on the issues raised by the non-settling parties (*i.e.* RESA and NRG). Joint Petition at 23-24.

## B. Positions of the Parties

### 1. Non-Unanimous Settlement[9]

PECO, the OCA, the OSBA, EJA, and TURN/CAUSE-PA all supported the Joint Petition. R.D. at 49-53.

PECO stated that the Revised DSP VI builds on the success of DSP V, and that the Non-Unanimous Settlement reasonably resolves the issues and concerns raised in this case without further litigation. R.D. at 49 (citing PECO St. in Supp. at 26).

The OCA averred that the Non-Unanimous Settlement is in the public interest, provides protections and benefits for consumers, and avoids costly litigation and the associated unpredictable results and uncertain benefit. The OCA further argued that the Non-Unanimous Settlement ensures that PECO will procure a default service portfolio at the least cost over time, increase the amount of renewable energy in the portfolio, protect consumers from harms caused by competition, and provide benefits to low-income customers. R.D. at 49-50 (citing OCA St. in Supp. at 5-16).

[9] See the R.D. at 29-49 for the ALJs' detailed summary of the Non-Unanimous Settlement.

The OSBA contended that the Non-Unanimous Settlement includes a worthwhile experiment to support renewable investment due to the additional solar supply that PECO proposed to procure for its residential customer class via ten-year fixed price power purchase agreements linked to in-state solar photovoltaic projects. The OSBA further supported the Joint Petition's move from quarterly to semi-annual price changes for small business customers, the further evaluation of PECO's TOU program, and the consumer protection adjustment to PECO's current standard offer program (SOP) requiring EGSs to automatically transfer SOP customers back to default service upon the expiration of the SOP contract unless the customer affirmatively chooses to remain with the SOP supplier. R.D. at 50-51 (citing OCA St. in Supp. at 2-3).

The EJA argued that the Non-Unanimous Settlement provides cost savings by avoiding litigation. The EJA also contended that the Non-Unanimous Settlement is in the public interest because it provides for the long-term procurement of energy, capacity, and solar photovoltaic alternative energy credits (AECs). The EJA further supported the measures in the Joint Petition to improve access to PECO's customer assistance program (CAP) for applicants being served by retail electric suppliers. R.D. at 51-52 (citing EJA St. in Supp. at 2-3).

TURN/CAUSE-PA argued that the Non-Unanimous Settlement is consistent with the Commission's policy to encourage settlements and will avoid the expense and burden of litigation. TURN/CAUSE-PA averred that the adjustments to PECO's TOU program will provide important protections to vulnerable customers. Further, TURN/CAUSE-PA submitted that the Non-Unanimous Settlement provides for additional protections for PECO's CAP customers. R.D. at 52-53 (citing TURN/CAUSE-PA St. in Supp. at 4-6).

RESA and NRG were the only parties that objected to the Joint Petition. R.D. at 53. RESA opposed the Non-Unanimous Settlement's provisions regarding

Capacity Proxy Price (CPP), the Generation Supply Adjustment Adder (GSA), the SOP, PECO's TOU rates, and PECO's proposal to continue its allocation of AECs. Also, RESA contended that the Non-Unanimous Settlement is not in the public interest because it does not include a statewide investigation into how default service pricing is messaged to customers, and it does not require PECO to provide certain additional updates on its customer information system (CIS) upgrade. R.D. at 1, 53.

NRG supported RESA's position in opposition to the Non-Unanimous Settlement, and it supported RESA's recommendation for a statewide investigation into default service messaging. NRG also supported RESA's opposition to the new bill disclosure under the Non-Unanimous Settlement, as well as RESA's recommendation regarding PECO's new CIS. R.D. at 1, 53.

### 2. RESA and NRG Objections

#### a. Issues Related to the Non-Unanimous Settlement

##### (1) Default Service Procurement and Implementation Plans

###### (a) Capacity Proxy Price

The Non-Unanimous Settlement provides for a CPP and true-up mechanism when PJM does not conduct its Base Residual Auction (BRA) under the Reliability Pricing Model (RPM) in time for wholesale default service supply bidders to formulate their bids for the default service supply auctions. R.D. at 54. Paragraph No. 32 of the Non-Unanimous Settlement states:

> 32. Effective June 1, 2025, the Joint Petitioners agree that if PJM does not conduct its Base Residual Auction ("BRA") for capacity in time for default service suppliers to incorporate the auction results into their bids, the CPP will be the average of the most recent results under PJM's Reliability Pricing Model ("RPM") from the two most recent delivery years for which PJM has held a capacity auction. Commencing at the start of the delivery year for which the BRA results were not known, winning suppliers will be debited or credited (as applicable) any differences between the CPP and the actual PJM capacity price.

Joint Petition at 9, ¶ 32.

Under this term, wholesale default service suppliers could use the CPP if the capacity price is not known for all months of the delivery period for a product offered at least five business days prior to the bid date. When the capacity price is set by PJM, winning wholesale default service suppliers would be made whole for the difference between the calculated CPP and the actual capacity price paid to PJM. Those true-up payments will be collected from default service customers through the price to compare (PTC). R.D. at 54 (citing RESA M.B. at 13; PECO St. No. 4 at 18-19).

RESA opposed the CPP proposal because, RESA claimed, it will result in supply price distortions for end users since the option is only available to the default service supplier, while other competitive suppliers must pursue other options in the market. This, RESA argued, will only insulate wholesale default service suppliers, and not EGSs, from the risks, which will lead to distortions in pricing generation services for all customers. RESA stated that both default service providers and EGSs rely on price signals from the forward capacity auction price when developing generation services pricing, wholesale default service suppliers use such price signals to develop default service bids, and EGSs use them to develop prices to be offered to customers. RESA averred that there is no risk on wholesale default service suppliers by allowing the use of

the CPP in lieu of having the forward capacity auction price signals when bids are submitted because PECO will make the wholesale default service suppliers whole for the difference when the price is known, and that EGSs do not have a similar option. RESA also submitted that this true-up mechanism of the PTC, when the price becomes known, is not beneficial for end use generation customers because it will confuse customers who are used to comparing the PTC to EGS pricing for purposes of selecting an alternative EGS. RESA contended that the Joint Petition's CPP provision violates the Competition Act because it creates an unfair competitive advantage and creates an unlevel playing field, in favor of default service suppliers, because they will recover all capacity obligation costs from ratepayers after the amount of the final payment obligation is known. Furthermore, RESA submitted that a secondary market for capacity exists, and is available to wholesale default service providers and EGSs when developing pricing for their products. According to RESA, the Commission should require all load serving entities (LSEs) to use this secondary market because it would result in a level playing field. R.D. at 54-57 (citing RESA M.B. at 13-16; RESA St. No. 1 at 29-30).

PECO countered that the use of a CPP in default service solicitations would not lead to a distortion in retail markets. PECO stated that while default service suppliers must serve customers under the terms of the Supplier Master Agreement (SMA), EGSs have the ability to offer certain products that are consistent with their costs and profit expectations. Based on this, PECO argued that EGSs can offer products that avoid business risk from unknown PJM BRA clearing prices, which is something that default service suppliers cannot do. R.D. at 57 (citing PECO M.B. at 12; PECO St. No. 1-R at 20; PECO St. No. 4-R at 20-21).

The OCA averred that default service suppliers and EGSs face different risks and opportunities in their business models. The OCA stated that EGS have flexibility in offering contracts of various terms, which helps to avoid the risk from the lack of a PJM capacity market price signal. Also, the OCA argued that the proposed CPP

is an improvement to PECO's default service procurement process that should improve price stability for default service customers. The OCA also submitted that the Commission approved a similar CPP provision in other Pennsylvania EDCs' default service plans. R.D. at 58 (citing OCA M.B. at 9; OCA St. No. 1R at 3-4).

### (b) AEPS Compliance

The Joint Petition proposes that PECO will procure, through ten-year, fixed-price power purchase agreements, the energy, capacity, and solar AECs generated by one or more new Pennsylvania solar photovoltaic projects with a total capacity of up to 25 MW to meet the default service requirements of residential customers. R.D. at 59. Paragraph No. 21 of the Non-Unanimous Settlement states:

> 21. During the DSP VI Term, PECO will also procure, through ten-year, fixed-price power purchase agreements ("Solar PPAs"), the energy, capacity and solar photovoltaic alternative energy credits ("AECs") generated by one or more new Pennsylvania solar photovoltaic projects with total capacity of up to 25 MW (DC) to meet the default service requirements of residential customers. The winning project(s) will be selected through a competitive procurement process in which PECO will seek 25 MW (DC) of solar capacity but will have flexibility to enter into agreements with multiple projects totaling 25 MW (DC) with a minimum project size of 5 MW (DC).

Joint Petition at 6, ¶ 21.

In addition, in order to satisfy the requirements of the AEPS Act, 73 P.S. §§ 1643.1 *et seq*., PECO's DSP VI will continue to require default service suppliers to

transfer Tier I and Tier II AECs for PECO's AEPS obligations. Specifically, Paragraph No. 36 of the Non-Unanimous Settlement provides:

> 36. Under the SMA, as in DSP V, PECO will continue to require each full requirements default service supplier to transfer Tier I (including solar photovoltaic) and Tier II AECs to PECO corresponding to PECO's AEPS obligations associated with the amount of default service load served by that supplier. In addition, PECO will continue to allocate AECs obtained through its separate solar procurements to suppliers in accordance with the percentage of load served by each supplier. PECO will retain any portion of its AEC inventory to meet AEPS obligations not provided for by fixed-price full requirements suppliers, and procure any additional required AECs through PECO's Tier I and Tier II "balancing" procurements previously authorized by the Commission. As described above, the AECs from the Solar PPAs will be used to meet the AEPS requirements associated with the spot portion of residential default service load served by PECO.

Joint Petition at 9-10, ¶ 36.

RESA opposed the process of entering into a ten-year contract to obtain solar AECs and allocating them only to default service loads. RESA argued that accurate comparisons between the default service rate and EGS pricing will be distorted because the basis for determining the ten-year pricing when the contract is formed may not accurately reflect the actual market price in the next ten years. RESA contended that the solar AEC procurement is not competitively neutral and will negatively impact the default service rate in the overall retail competitive market structure. R.D. at 59-60 (citing RESA M.B. at 17). Rather, RESA recommended that PECO should procure the long-term contracts for solar AECs and assign the acquired solar AECs to all LSEs on a load ratio share basis with cost recovery through a non-bypassable surcharge. RESA St. No. 1 at 34.

NRG supported RESA's position on this issue. R.D. at 60 (citing NRG M.B. at 3).

PECO argued that RESA failed to provide any evidence that the solar AEC procurement will lead to an inadequate supply of solar AECs generated in the Commonwealth. Rather, PECO averred that solar AECs are readily available in Pennsylvania, and EGSs can hedge their position or procure their own solar AECs. R.D. at 60 (citing PECO M.B. at 13; PECO St. No. 1-R at 18).

The OCA did not contest this portion of PECO's DSP VI and stated that the proposed AEPS Act compliance is in the public interest because it will ensure that PECO is able to comply with the AEPS Act and will prevent the costs and burdens of litigation to determine how PECO will comply. The OCA did not support RESA's recommendation that PECO assign the acquired solar AEC to all LSEs on a load ratio sharing basis with cost-recovery through a non-bypassable charge. The OCA averred that the Non-Unanimous Settlement provides for a reasonable plan for PECO to acquire and use AECs in a manner that will satisfy the AEPS Act. R.D. at 60-61 (citing OCA M.B. at 10-11).

PAIEUG argued that RESA failed to provide any evidence to corroborate any competitive market concerns that EGSs do not have the same ability as EDCs to enter into risk free, long-term contracts. Further, PAIEUG submitted that RESA did not provide any substantive evidence to support requiring a change in PECO's procurement of solar AECs. R.D. at 61 (citing PAIEUG M.B. at 3; RESA St. No. 1 at 33-34; PECO St. No. 1-R at 13).

Calpine also opposed RESA's proposal regarding cost recovery of solar AECs. Calpine argued that RESA's proposal would remove competitive discipline, reward underperformers in the marketplace, punish those that create innovative solutions

to manage their load and associated risks for their customers. In addition, Calpine averred that RESA did not provide any evidence that PECO's proposed process regarding the long-term procurement of solar AECs and cost recovery has negatively impacted competition. R.D. at 62-63 (citing Calpine R.B. at 2, 4).

### (2) Rate Design and Cost Recovery

#### (a) Adjustment of Default Service Rates

The Non-Unanimous Settlement provides that PECO will change the frequency for adjusting default service rates from quarterly to semi-annually to reflect changes in supply costs. R.D. at 65. Paragraph No. 40 of the Non-Unanimous Settlement states:

> 40. PECO will continue to recover the cost of default service from default service customers through the Generation Supply Adjustment ("GSA") and Transmission Service Charge ("TSC") consistent with DSP V. For the Residential and Small Commercial customer classes, default service rates established pursuant to the GSA will change semi-annually instead of quarterly and over/undercollections of default service costs will continue to be reconciled on a semi-annual basis. Such rates will continue to recover: (1) generation costs, certain transmission costs and ancillary service costs established through PECO's competitive procurements; (2) supply management, administrative costs (including costs incurred to implement Commission-approved retail enhancement programs) and working capital, as provided in 52 Pa. Code § 69.1808; and (3) applicable taxes. The projected GSA will be filed by PECO on June 1 and December 1 of each year. The GSA and TSC form the basis of the Price-to-Compare ("PTC") that customers may use to evaluate competitive generation service offerings.

Joint Petition at 11, ¶ 40.

RESA opposed changing the frequency of default service rate adjustments from quarterly to semi-annually. RESA argued that the ability of the EDC, as the default service provider, to change its default service rates to reconcile over- or under-collections from the prior period creates an inequity in the marketplace. According to RESA, default service rates must be as market-responsive as possible to track the market price of electricity, and less frequent rate adjustments represent a step backwards. RESA contended that less frequent rate adjustments cause consumers not to see the true cost of their default service and its relationship to the market, and this negatively impacts EGSs in establishing competing offers and entering a market. R.D. at 65 (citing RESA M.B. at 18-19; RESA St. No. 1-R at 12-13).

PECO claimed that moving to semi-annual default service rate adjustments aligns with PECO's semi-annual procurement schedule for the Residential and Small Commercial Classes, balances market responsiveness of the price to compare with current market conditions, and provides price stability benefits to customers. PECO averred that the Commission has approved similar semi-annual default service rate adjustments for other Pennsylvania EDCs, as default service providers. R.D. at 65-66 (citing PECO M.B. at 14-15 (additional citations omitted)).

The OCA argued that moving to semi-annual default service rate adjustments is supported by the record and is in the public interest. The OCA averred that semi-annual default service rate adjustments would provide greater rate stability and certainty for residential customers, reduce administrative costs, and align PECO with the other Pennsylvania EDCs. R.D. at 66 (citing OCA M.B. at 13; OCA St. No. 1SR at 2).

**(b) Time of Use Rates**

The Non-Unanimous Settlement provides that PECO will continue its current Commission-approved TOU default service rates for eligible residential and small

commercial customers in accordance with 66 Pa.C.S. §2807(f)(5), and PECO will also perform an evaluation of its current TOU rate structure and report its findings in its next default service case filing. R.D. at 69-70. Paragraph Nos. 46-62 of the Non-Unanimous Settlement describe the proposed TOU rates, as follows:

> 46. During DSP VI, PECO will continue its current Commission-approved TOU default service rate options for eligible customers in PECO's Residential and Small Commercial procurement classes to comply with PECO's obligation under Act 129 of 2008 ("Act 129") to offer TOU and real-time rates to all default service customers with smart meters.[10]
>
> 47. PECO will perform a one-time evaluation of the Company's current TOU rate structure and present the results in its next default service filing. PECO's evaluation will include an assessment of enrollment rates and customer characteristics conducted through a voluntary remail survey of all participating TOU customers (e.g., income, air conditioning, rooftop solar and electric vehicles ownership, etc.). The survey will include questions regarding whether customers would prefer an incentive-based program which PECO will use to inform the Company on whether to consider proposing incentive-based time varying rates in future proceedings. Additionally, PECO's evaluation will include an analysis of seasonal variation in the calculation of the TOU multipliers.
>
> **(i) TOU Product Structure and Rate Design**
>
> 48. PECO's TOU rates will differentiate prices across three usage periods that are constant throughout the year as shown in Table 1 below.

[10] 66 Pa.C.S. §§ 2807(f)(5). The hourly-priced default service rate for the Consolidated Large C&I Class already meets Act 129 requirements.

**Table 1**

| TOU Pricing Period | Year-Round Days/Hours Included |
|---|---|
| Peak | 2 p.m. – 6 p.m.<br><br>Monday Through Friday, excluding PJM holidays |
| Super Off-Peak | Midnight (12 a.m.) – 6 a.m.<br><br>Every day |
| Off-Peak | All other hours |

These TOU pricing periods will be identical for the Residential and Small Commercial Classes.

49. PECO's TOU price multipliers will continue to reflect the ratios calculated from average PJM PECO zone spot market prices as well as allocation of the cost of capacity to peak and off-peak hours only.

50. PECO will continue to review its TOU multipliers on an annual basis, using a rolling five years of historical PJM Day-Ahead Spot Market Pricing energy data and Reliability Pricing Model capacity pricing data for the PECO Zone. PECO will only update the applicable TOU pricing multipliers if the use of such data would result in no more than a 10% change from the prior-year's TOU pricing multipliers. If the price multiplier change would exceed 10%, the applicable pricing multipliers will be changed by exactly 10%.

51. PECO's TOU pricing multipliers effective June 1, 2023 through May 31, 2024 are shown in Table 2 below. The updated multipliers for the first year of DSP VI will be reflected in PECO's GSA filing 45 days before June 1, 2025.

**Table 2**

| TOU Pricing Period | GSA-1 TOU Pricing Multipliers* | GSA-2 TOU Pricing Multipliers* |
|---|---|---|
| Peak | 7.21 | 5.56 |
| Super Off-Peak | 1 | 1 |
| Off-Peak | 1.46 | 1.55 |

*Ratio to Super Off-Peak TOU price

52. PECO will source both the standard and TOU default service for residential and small commercial customers from the same supply portfolio for each procurement class. PECO will use the standard default service GSA as the reference price for PECO's TOU rate calculations.

53. PECO will calculate the TOU rates on a semi-annual basis, synchronized with the GSA adjustment periods as agreed to in this Settlement for the Residential and Small Commercial Classes, using the pricing methodology set forth in PECO Exhibit No. MAM-5. TOU customer kWh sales and costs will be included in the semi-annual reconciliation of the over/undercollection component of the GSA for the entire procurement class (i.e., Residential or Small Commercial).

**(ii) Customer Eligibility**

54. PECO's TOU rates will be available to residential and small commercial default service customers with smart meters configured to measure energy consumption in watt-hours. However, customers enrolled in the Company's Customer Assistance Program ("CAP") will not be eligible for the residential TOU rate during the Revised DSP VI term to avoid potential adverse impacts on CAP benefits.

55. Eligible default service customers may enroll in PECO's TOU Rates online or through the Company's care center. Participating customers will remain on the TOU rate until they affirmatively elect to return to PECO's standard

default service rate, switch to an EGS or otherwise become ineligible.

56. Customers who select the TOU rate may leave at any time without incurring related penalties or fees. However, if those customers subsequently leave the TOU Rate for any reason, they may not re-enroll for twelve billing months after switching off the TOU Rate.

**(iii) Implementation Plan and Cost Recovery**

57. PECO will continue to use the communications plan approved in the DSP V proceeding to inform customers about TOU rates and update enrolled TOU customers about the opportunity for bill savings. This plan includes a webpage dedicated to the TOU Rates, a variety of other customer education materials, and monthly e-mail communications to enrolled TOU customers.

58. PECO agrees to add the following disclosure to PECO's TOU webpage in the section titled, "Is Time-of-Use Pricing right for me?":

> (a) "If you are having trouble affording your electricity bill, PECO offers programs and services to help those in need. Contact PECO at 1-800-494-4000 for more information and to apply."

59. PECO agrees to, no less frequently than every six (6) months, attempt personal contact with confirmed low-income TOU customers to encourage those customers to enroll in PECO's CAP.

60. PECO agrees to continue to evaluate the impacts of the Company's TOU rates on confirmed low-income customers as part of the annual report required by Act 129.

61. To assist in the preparation of the annual report, PECO will continue to track TOU customers' income and demographic information (e.g., age, race, ethnicity and disability status). However, eligible customers who refuse to

disclose this information will not be precluded from enrolling in PECO's TOU rates.

62. PECO will recover the costs to implement the new TOU rates from customers in the eligible procurement classes (i.e., the Residential and Small Commercial Classes) through the administrative cost factor of the GSA.

Joint Petition at 13-17, ¶¶ 46-62.

RESA opposed the one-time evaluation contained in the Non-Unanimous Settlement because RESA argued that the evaluation is unnecessary to the extent it is intended to improve PECO's TOU or increase enrollment. RESA contended that, rather than enhance PECO's TOU offering, customers should rely on EGSs to develop competitive and innovative products, including TOU offerings, to meet customer needs. RESA stated the statutory requirement for the EDC to offer a TOU rate does not mean the EDC should spend ratepayer money to create products that are better delivered in the competitive market. RESA further argued that EGSs are best positioned to provide enhanced offerings through TOU rates. R.D. at 68 (citing RESA M.B. at 20-21; RESA St. No. 1-R at 14).

PECO noted that all EDCs have a statutory obligation to offer TOU rate options to default service customers under 66 Pa.C.S. § 2807(f)(5). PECO argued that RESA did not present any evidence that the evaluation of PECO's TOU rates will impact TOU rate products available in the competitive market or preclude EGSs from offering alternative price offerings. PECO averred that the TOU rates contained in the Non-Unanimous Settlement satisfy the statutory requirements. R.D. at 68-69 (citing PECO M.B. at 17).

The OCA argued that RESA failed to explain how PECO could fulfill its statutory obligation to offer a TOU rate without spending ratepayer money. The OCA

submitted that RESA also failed to identify the kinds of products that PECO could create that could not be provided by the competitive market. Rather, the OCA contended that the investment of ratepayer funds already expended to establish PECO's TOU rate offering should be used to meet the Commission's TOU rate program goals. R.D. at 69 (citing OCA M.B. at 15).

### (3) Standard Offer Program

The Non-Unanimous Settlement provides that PECO's current SOP shall continue; however, EGSs entering into SOP contracts with customers executed after June 1, 2025 must automatically transfer SOP customers to default service upon the expiration of the SOP contract unless the customer affirmatively elects to remain with the SOP supplier. Paragraph Nos. 63 and 64 of the Joint Petition state:

> 63. The currently-effective Standard Offer Program ("SOP"), including the cost recovery mechanisms last approved by the Commission in PECO's DSP V proceeding, will continue as modified by this Settlement until May 31, 2029, unless ordered by the Commission to be terminated sooner.
>
> 64. The Joint Petitioners agree that for all SOP contracts executed after June 1, 2025, EGSs must automatically transfer SOP customers to default service upon the expiration of the SOP contract unless the customer affirmatively elects to remain with the SOP supplier. PECO's Electric Generation Supplier Coordination Tariff ("Supplier Tariff") set forth in Exhibits F and G hereto has been updated to reflect this requirement. PECO will change its SOP scripting to inform all customers who enroll after June 1, 2025, that enrollment in an SOP contract under those terms will operate as consent to return to default service absent an affirmative decision to remain with the SOP supplier at the end of the term.

Joint Petition at 17, ¶¶ 63-64.

RESA opposed the changes to the SOP set forth in the Non-Unanimous Settlement. RESA argued that returning shopping customers to default service upon the expiration of the SOP contract violates the Competition Act and the Commission's rule permitting EGSs to automatically convert existing contracts with proper customer notice. R.D. at 70 (citing RESA M.B. at 24). RESA argued that providing for the switching of a SOP customer to default service would constitute illegal slamming, in violation of 66 Pa.C.S. § 2807(d), because the customer's EGS would be switched without customer consent. RESA explained that adopting the Non-Unanimous Settlement would permit slamming because the customer who affirmatively selected the SOP and chose not to take any action during the renewal period to select a different product or supplier would be automatically returned to default service. R.D. at 73-74 (citing RESA M.B. at 28-29).

In addition, RESA argued that providing for shopping customers to automatically be returned to default service upon the expiration of the SOP contract, as set forth in the Non-Unanimous Settlement, is not consistent with prior decisions of the Commission that found that inaction during the renewal period constitutes customer consent to remain with the EGS. RESA averred that not returning shopping customers to default service at the expiration of the SOP contract has been a feature of the SOP program, and that the Commission rejected a prior EDC proposal to implement a provision to automatically return EGS customers to default service upon SOP contract expiration. RESA stated that in prior decisions, the Commission has said that once a customer enrolls in the SOP, the EDC has no further role in administering the SOP, and the lack of action on the part of the customer results in the customer being automatically renewed with the same EGS. R.D. at 74 (citing RESA M.B. at 30 (citing *Petition of PPL Electric Utilities Corporation for Approval of Its Default Service Plan for the Period June 1, 2021 Through May 31, 2024*, 2020 Pa.P.U.C. LEXIS 636, *47-48 (Order entered December 17, 2020) (*PPL DSP V*) at 92-94)).

Furthermore, RESA contended that the record does not support reversing prior Commission decisions that rejected automatically returning EGS customers to default service upon SOP contract expiration. RESA averred that PECO did not present any evidence specific to prices paid by EGS customers following SOP expiration, nor was any evidence offered to support that post-SOP contract pricing is hurting customers. R.D. at 75-76 (citing RESA M.B. at 31-32).

Like RESA, NRG opposed the changes to the SOP in the Non-Unanimous Settlement because it claimed that such changes are inconsistent with the Commission's Regulations and prior Commission decisions, and these changes are not supported by the record. Instead, NRG supported PECO's current SOP without any changes. NRG noted that PECO's statistics show that upon the expiration of their SOP contracts, many of PECO's customers are making an affirmative choice other than remaining with their SOP supplier. NRG averred that Paragraph No. 64 of the Non-Unanimous Settlement is unreasonable because it would eliminate the option for SOP customers to choose another supplier at the expiration of the SOP contract. Furthermore, NRG argued that the record does not support distinguishing the Commission's precedent that suppliers cannot switch a customer back to the utility absent their affirmative consent to do so. R.D. at 76-78 (citing NRG M.B. at 3-4).[11]

PECO argued that the changes to its current SOP agreed to as part of the Non-Unanimous Settlement balance the interests of customers, participating EGSs, and

[11] AP&G submitted an Amicus Brief echoing the concerns of RESA and NRG. Specifically, AP&G argued that the proposed changes to PECO's SOP in the Non-Unanimous Settlement are contrary to the requirements in prior Commission orders and the recent *PPL DSP V* Order. AP&G averred that requiring the affirmative consent of SOP customers to remain on a renewable contract despite receiving the same notices as other customers would differ from the treatment of other customers and is not warranted or wise. AP&G further stated that the record does not provide any evidence to support the change to PECO's SOP in the Non-Unanimous Settlement. R.D. at 78-79 (citing AP&G A.C.B. at 2, 5-6).

the Commission's guidelines in prior default service proceedings regarding SOPs. PECO contended that the Non-Unanimous Settlement preserves the original purpose of the SOP by introducing customers to the competitive market, while addressing concerns that a customer's inaction upon expiration of the SOP contract leads to that customer rolling over to a new contract with the SOP supplier at a higher rate than the PTC. R.D. at 79 (citing PECO M.B. at 18-19).

The OCA argued that the Commonwealth Court has twice referenced an SOP approved by the Commission as an example of how the Commission has approved or implemented rules that restrict competition. R.D. at 79 (citing OCA M.B. at 20, referring to *Retail Energy Supply Ass'n v. Pa. PUC*, 185 A.3d 1206, 1221 (Pa. Cmwlth. 2018) (*RESA*); *Coalition for Affordable Util. Servs. & Energy Efficiency in PA. et al. v. Pa. PUC*, 120 A.3d 1087, 1093, 1103 (Pa. Cmwlth. 2015) (*CAUSE-PA*). The OCA also averred that in *PPL DSP V*, a proposed modification to the SOP was rejected because a determination was unable to be made from the record that a harm was occurring as a result of the existing SOP. R.D. at 80 (citing *PPL DSP V*). However, the OCA attempted to distinguish the instant case from *PPL DSP V* by arguing that the record in the instant case is clear that shopping harms customers in the aggregate, month-in and month-out, based upon the fact that PECO's customers have paid more than $800 million more in six years to suppliers than they would have paid under the default service rate. R.D. at 80 (citing OCA M.B. at 20; OCA St. No. 2 at 12-13). The OCA contended that PECO's current SOP, and its negative option renewal, have produced harms to shopping customers and other ratepayers, and the Commission has the ability to ensure that this market enhancement program approved in 2012 does not exacerbate this harm. Therefore, the OCA submitted that the SOP is a limitation on competition and the provisions at Paragraph No. 64 of the Non-Unanimous Settlement offer a reasonable means by which the Commission can "bend" competition to ensure that customers remain protected. R.D. at 80 (citing OCA M.B. at 20).

In addition, the OCA argued that the proposed changes to the SOP in the Non-Unanimous Settlement are prospective only, for contracts after June 1, 2025, and, therefore, will not interfere with existing SOP agreements and will be done with the informed consent of a customer entering the program. The OCA averred that the Non-Unanimous Settlement includes reasonable conditions to protect current supplier contracts and ensure that the harms to consumers demonstrated in this proceeding concerning shopping are no longer exacerbated by a Commission-designed, utility-promoted program. Moreover, the OCA stated that nothing in the Non-Unanimous Settlement prevents a customer from choosing to shop at any time, thereby maintaining customers' direct access to the retail market. R.D. at 81-82 (citing OCA M.B. at 21).

TURN/CAUSE-PA disagreed with RESA that the proposed change to the SOP, which would return customers to default service upon expiration of the SOP period, would violate the Competition Act. TURN/CAUSE-PA further argued that RESA's position, that SOP terms and conditions have been firmly established and cannot be modified, is unsupportable and without basis in law. Moreover, TURN/CAUSE-PA contended that the proposed changes to the SOP are not anti-competitive or discriminatory. Like the OCA, TURN/CAUSE-PA referred to the Commonwealth Court's conclusions that competition may permissibly bend and, at times, unbridled competition may have to yield to other concerns. TURN/CAUSE-PA averred that the record evidence demonstrates that residential customers consistently experience EGS prices in excess of the PTC, resulting in millions of dollars of higher bill charges and associated financial risk and the risk of loss of essential electricity service. TURN/CAUSE-PA argued that informing the customer that they will be returned to default service upon expiration of the initial SOP contract, unless they affirmatively elect otherwise, will help promote informed decision-making rather than passive conversion to a month-to-month product. Finally, TURN/CAUSE-PA contended that because the SOP is a voluntary program where the customer is informed at the outset, the proposed modification to PECO's SOP does not constitute slamming. TURN/CAUSE-PA

submitted that the circumstance presented in the instant case is analogous to the approved SOP terms applicable to CAP participants in *RESA* at 1224-25, which were affirmed by the Commonwealth Court in ruling that the voluntary program rule does not constitute slamming. R.D. at 83-87 (citing Turn/CAUSE-PA M.B. at 7-14).

### (4) Bill Format

The Non-Unanimous Settlement includes a provision whereby PECO will include a chart on the first page of shopping residential customers' bills to compare the customer's total supplier charges for the billing period with what they would have paid if they were on default service. Paragraph Nos. 65 and 66 of the Joint Petition state, as follows:

> 65. The Joint Petitioners agree to adopt PECO's proposed Residential bill format change as modified by this Settlement, originally set forth in PECO Exhibit SD-6, adding a graphic to the first page of the residential customer bill that compares the customer's total supplier charges for the billing period with what the dollar amount of the charges would be under PECO's applicable PTC based on the customer's usage during the billing period.
>
> 66. The Joint Petitioners agree PECO should not include the third column of the new chart titled "Electric Supplier Savings" presenting the variance between the two-dollar amount figures as shown in Exhibit H hereto. Exhibit H is a revised version of PECO Exhibit No. SD-6, to reflect the Residential bill format changes set forth in this Settlement.

Joint Petition at 17-18, ¶¶ 65-66.

RESA opposed this proposal as violating the Competition Act, being overly simplistic, and having the potential to be misleading and confusing to customers. RESA

argued that adding a comparison chart to customer bills violates the Competition Act because it judges a customer's choice of EGS and retail product in relation to default service and encourages the idea that default service is superior. RESA averred that the Competition Act also does not contemplate input or judgement to occur from the EDC on customer shopping choices on the customer's bill, and that customer bills should only include sufficient information to determine the basis for the charges on the bill. R.D. at 99 (citing RESA M.B. at 37-38).

RESA also argued that, because the default service product and an EGS's retail product are priced differently, PECO's bill chart would not be a true comparison, as it would be overly simplified and misleading. RESA submitted that a chart that shows the difference between the supplier price and the default service rate in effect at a particular point in time does not take into account the nature or length of the contract or other variables that may impact the price. RESA contended that the graphic proposed to be included on the customer bill would suggest a judgment of customer shopping choices, which ignores the distinctions between the default service rate and the competitive supply product and presents the information in a biased way in favor of default service. RESA further averred that the comparison chart on the bill would incorrectly imply that the default service product and EGS offerings are developed in similar ways and are comparable. R.D. at 100 (citing RESA M.B. at 38-39).

Alternatively, to the extent the Commission adopts this proposal, RESA suggested that PECO be directed to include specific disclosures about the price comparison on any bill redesign, which should be developed through a collaborative process and submitted to the Commission for approval prior to implementation. Furthermore, RESA proposed that PECO be directed to provide more space on the consolidated utility bill for suppliers to provide customer-specific messaging and explanations regarding how the supplier product is different from the default service rate. R.D. at 101 (citing RESA M.B. at 40; RESA St. No. 1 at 23).

NRG agreed with RESA that the proposed bill format changes would create misleading comparisons of different pricing structures without any context or useful information for consumers to understand. NRG further stated that no other utility includes a similar price comparison chart on its bills. NRG submitted that this proposal is anti-competitive, misleading, and will further promote the view that default service supply is the superior supply product for customers based on price alone. R.D. at 102 (citing NRG M.B. at 7).

PECO disagreed with RESA's objections to the new bill disclosure comparing the price EGS charges with the default service rate. PECO submitted that the new bill disclosure outlined in the Non-Unanimous Settlement was developed through a stakeholder collaborative in January 2021, in which several EGSs participated. In addition, PECO contended that its consolidated billing option provides ample space for EGSs to describe their products and pricing. Therefore, PECO argued that there is no need to provide additional space for RESA's recommended disclosures on the nature of PECO's default service procurement approach and EGS products and services. R.D. at 102 (citing PECO M.B. at 21-22; PECO St. No. 1 at 29; PECO St. No. 1-R at 26-27).

The OCA argued that by including the bill format change in the Non-Unanimous Settlement, adequate notice of the proposed change is provided, which is supported by the record and is in the public interest. The OCA submitted that RESA's position, that less information for customers is better for the competitive market, is unfounded. Furthermore, the OCA averred that RESA's request for more messaging space on the residential bill is also unnecessary because EGSs have multiple channels to communicate with the public and their customers regarding the products and services offered. R.D. at 103 (citing OCA M.B. at 28; OCA St. No. 2 at 2, 4; OCA St. No. 2SR at 8).

TURN/CAUSE-PA disagreed with RESA's opposition to the proposed bill format change because TURN/CAUSE-PA argued that it simply performs a mathematical calculation of EGS charges without any judgment. TURN/CAUSE-PA stated that the challenges associated with determining the actual costs of choosing EGS supply justify including the comparison of charges on the PECO bill. TURN/CAUSE-PA also disagreed that default service and EGS prices are developed in different ways and that price information, alone, does not take into consideration the nature or length of the contract or reasons why the price may be higher. TURN/CAUSE-PA further averred that there is substantial evidence that supports that customers do take into account non-price considerations when selecting EGS supply. R.D. at 103-05 (citing TURN/CAUSE-PA R.B. at 21-23).

In addition, TURN/CAUSE-PA argued that RESA's proposals that PECO be directed to make additional disclosures and provide more space on the bill for supplier-specific messaging are inappropriate and unnecessary. TURN/CAUSE-PA stated that narrative communication from PECO regarding EGS charges should be limited in the billing context to protect against endorsement of EGS supply or affiliation with EGS suppliers, and that there is no reasonable basis to require PECO to include additional messaging on its bills. R.D. at 105-06 (citing TURN/CAUSE-PA R.B. at 24-26).

### b. RESA Proposals Regarding Retail Competition Issues

#### (1) Statewide Investigation of Default Service

RESA proposed that the Commission initiate a statewide investigation focused on the messaging of default service and allowing interested stakeholders to have input into the message. RESA stated that the Commission and EDCs use the PTC as the basis for judging EGS pricing offers when evaluating the success of the retail electric market. RESA contended that comparisons between default service rates and supply

prices are misleading and inaccurate, and that the PTC is an inappropriate data point to use in evaluating EGS offers and retail market success. RESA also averred that EGSs will focus on short-term pricing arrangements for EGS pricing rather than longer-term investments in the market if messaging to customers suggests the default service rate is superior to EGS pricing offers, and this will negatively impact the development by EGSs of innovative competitive products and services for consumers. RESA averred that the retail market will continue to remain stagnant unless and until there is a willingness to review the use of the PTC against other prices. R.D. at 89-90 (citing RESA M.B. at 34-36; RESA St. No. 1 at 17-18).[12]

PECO opposed RESA's proposal for a statewide investigation into default service messaging. PECO disagreed with RESA's claim that the competitive market has become stagnant due to the existence of the default service product. PECO argued that RESA's reliance on switching rates as of March 2024 is misleading because those statistics do not include all the customers who may have considered switching to EGS service but decided against it, or the customers who have previously switched but are now back on default service. PECO also averred that shopping alone is not indicative of the status of competition as there are numerous EGSs competing to serve PECO customers, and of which serve over half of PECO's total electric load. Further, PECO stated that there are other factors that contribute to a customer's decision not to receive supply from an EGS, not just competitive market design issues. Moreover, PECO contended that RESA failed to present any evidence to support the claim that changing the messaging of the default service product would allow EGSs to develop more innovative products. PECO concluded that it has been the default service provider in its service area since 2011, with customers making decisions based on the PTC, and there has not been any Commission finding that this framework sends a message to customers

[12] NRG supported RESA's position on this issue. NRG M.B. at 6.

that default service is superior to competitive offerings. R.D. at 91-92 (citing PECO M.B. at 19-20).

The OCA also opposed RESA's request for a statewide investigation. The OCA argued that RESA's allegation that the competitive market is stagnant is unsound and ignores certain provisions of the Code that require procuring default supply through competitive processes. The OCA noted that RESA's proposal would not make changes to how the PTC is developed. Furthermore, the OCA contended that eliminating the use of the PTC in messaging to customers would be unreasonable due to the costs incurred and years of consumer education that would be lost, as well as the resulting customer confusion about how to shop and compare for electric supply. The OCA submitted that RESA's proposal for a statewide investigation is not necessary or in the public interest. R.D. at 92-93 (citing OCA M.B. at 25-26; OCA St. No. 2R at 2-4).

TURN/CAUSE-PA also disagreed with RESA's claims about the PTC and its request for a statewide investigation. TURN/CAUSE-PA claimed that the basis for RESA's position is its dissatisfaction with the number of residential customers choosing EGS supply. TURN/CAUSE-PA averred that RESA's proposal is not factually supported nor legally founded. R.D. at 93 (citing TURN/CAUSE-PA R.B. at 15). Furthermore, TURN/CAUSE-PA argued that RESA's efforts here are inconsistent with the Competition Act because it was intended to encourage competition in order to benefit customers with lower costs, and the Commonwealth Court has explained that a customer's ability to compare EGS offers to default service based on price is precisely what the General Assembly intended in establishing the competitive market for electricity. R.D. at 94 (citing TURN/CAUSE-PA R.B. at 16, citing *Indianapolis Power & Light Co. v. Pa. PUC,* 711 A.2d 1071, 1078 (Pa. Cmwlth. 1998)).

In addition, TURN/CAUSE-PA argued that the Commission should not undermine efforts to educate consumers so that they can make meaningful price

comparisons. TURN/CAUSE-PA stated that residential customers are increasingly choosing default service because it offers a stable option that provides the least cost over time which is not subject to frequent adjustments, rather than experiencing higher costs when choosing to shop for EGS supply. Moreover, TURN/CAUSE-PA stated that RESA's claim that residential customers have lower-priced products available in the competitive market is misleading because these lower-priced products disregard other charges imposed by EGSs such as monthly fees and customer charges. R.D. at 97 (citing TURN/CAUSE-PA R.B. at 19-20).

### (2) PECO Customer Information System Upgrade

On February 20, 2024, PECO launched a new CIS, which included a transition to a new Choice ID and customer account number with the same number of digits. PECO R.B. at 12.

RESA argued that when PECO implemented its CIS upgrade, the Company ignored the needs of suppliers to access PECO's system or to communicate with PECO regarding customer enrollments. RESA claimed that PECO's actions violated the rights of EGSs and shopping customers under the Competition Act because direct access to PECO's system was inhibited, affecting EGSs' ability to enroll customers and supply electric generation service to those customers. RESA stated that PECO assigned customers a Choice ID to be used instead of an account number to change their supplier, which is confusing because the Choice ID number and the utility account number contain the same number of digits. RESA further averred that customers had not received any bills with the new Choice ID on them, and the Eligible Customer List (ECL) was not updated to include the new Choice IDs, which caused neither customers nor suppliers to have the ability to access the Choice ID, which is essential information needed to change suppliers. RESA stated that customers were given their new account numbers when they

called PECO requesting their Choice IDs, and this resulted in a later rejection because the correct Choice ID was not provided. RESA contended that PECO refused to work with the suppliers to match the account number to the Choice ID, and many customers were unable to be enrolled, as requested. RESA also averred that its members experienced issues with the rejection of invoices for supplier customer accounts that were closed by PECO. R.D. at 107 (citing RESA M.B. at 42; RESA St. No. 1 at 25-26).

RESA recommended that PECO be directed to include specific processes to work collaboratively with competitive suppliers to provide reasonable support to their ability to provide service and enroll customers. Specifically, RESA requested that PECO be directed to: (1) provide daily updates to competitive suppliers and weekly updates to Commission Staff for at least the first ninety (90) days of any system upgrade, including reporting on the number of issues identified by suppliers, the number of customers impacted, an explanation of efforts to resolve those issues without placing an undue burden on suppliers, and the estimated timeline for resolution; (2) assign each competitive supplier a consistent point of contact for addressing CIS upgrade issues experienced by that supplier; and (3) exercise flexibility when troubleshooting supplier issues with the goal of offering realistic solutions that do not unduly burden the supplier and ensure the best possible customer experience. R.D. at 108 (citing RESA M.B. at 43; RESA St. No. 1 at 27).[13]

PECO contended that RESA's proposals are unwarranted because, by the time of the issuance of the Commission's Final Order in this proceeding, PECO's new CIS will have been in place for almost eight months. PECO stated that before going live with the CIS upgrade, it held webinars and issued several supplier bulletins regarding the upgrade, and that many RESA members attended two of the webinars where the transition to new Choice IDs was discussed. PECO further stated that it resolved the

[13] NRG supported RESA's position on this issue. NRG M.B. at 7.

technical issues that caused rejection of some EGS invoices after the new CIS was implemented. Finally, PECO claimed that assigning a direct point of contact for each of the ninety-eight (98) EGSs in PECO's service area is not feasible because its internal team responsible for handling EGS-related inquiries consists of four (4) employees, and this team responded to approximately 1,600 supplier inquiries regarding the CIS upgrade in the last three months. R.D. at 109 (citing PECO M.B.at 22-23; PECO St. No. 1-R at 29).

### C. Recommended Decision

The ALJs reached twenty-two (22) Conclusions of Law. R.D. at 110-13. We shall adopt and incorporate herein by reference the ALJ's Conclusions of Law, unless they are reversed or modified by this Opinion and Order, either expressly or by necessary implication.

The ALJs recommended that the Non-Unanimous Settlement be approved, without modification.[14] The ALJs further recommended that RESA's and NRG's objections to the Non-Unanimous Settlement be denied because they fail to identify any record evidence or legal argument to support why the provision of the Non-Unanimous Settlement should not be approved as part of the final PECO DSP VI plan. R.D. at 1-2.

Specifically, the ALJs concluded that the provisions in the Non-Unanimous Settlement are reasonable compromises. The ALJs found that achieving the Non-Unanimous Settlement reduced substantial litigation expenses by resolving many important and contentious issues. Furthermore, the ALJs stated that the Non-Unanimous Settlement is a "carefully crafted package representing reasonable negotiated

[14] As noted, *supra*, the ALJs' detailed summary of the Non-Unanimous Settlement is set fort at pages 29-49 of the Recommended Decision. R.D. at 29-49.

compromises on the issues addressed," and is consistent with the Commission's policy encouraging settlements. The ALJs recommended that the Non-Unanimous Settlement be approved without modification because it is fair, just, reasonable, and in the public interest. R.D. at 53.

Moreover, the ALJs recommended that the objections and proposals of RESA and NRG to specific issues in the Non-Unanimous Settlement also be denied. In recommending the denial of each of RESA's and NRG's objections and proposals, the ALJs specifically addressed each issue in the Recommended Decision, as follows:

### 1. Capacity Proxy Price

The ALJs stated that the Commission previously approved the use of a CPP in default service procurements in other EDCs' DSP cases because a CPP would maintain diversity of supply products and mitigate risk premiums. The ALJs concluded that use of a CPP by PECO will create predictability and improve price stability since it is likely that the capacity price will not be known ahead of several of PECO's upcoming default service supply solicitations. Furthermore, the ALJs disagreed with RESA that the CPP proposal is competitively unfair to EGSs. The ALJs found that RESA's argument is not supported by the differences in business models and contractual obligations of EGSs and wholesale default service suppliers, and the flexibility of EGSs to adjust competitive offers to address issues arising from delays in PJM capacity auctions. Therefore, the ALJs recommended that the Commission approve the inclusion of PECO's CPP proposal in the Non-Unanimous Settlement. R.D. at 59.

### 2. AEPS Compliance

The ALJs concluded that RESA failed to provide any legal or factual basis to change PECO's long-standing practice of allocating solar AECs to default service

suppliers. The ALJs determined that RESA showed neither that this practice is not competitively neutral nor that it adversely impacts development of the retail market. Rather, the ALJs found that the goal of RESA's proposal is to replace reliance on EGSs to handle their own AEC procurement costs, by shifting their costs to all customers, which would hurt competition, reward underperformers, and fail to provide incentives for EGSs to create innovative products to manage their load and risks for their customers. Accordingly, the ALJs recommended that RESA's proposal be rejected, and PECO's plan for AEPS compliance, as modified in the Non-Unanimous Settlement, be approved. R.D. at 64.

### 3. Adjustment of Default Service Rates

The ALJs found that RESA's concern for the timely reflection of market prices is inconsistent with PECO's purchasing of default supply, because the contracts for residential default service supply will change semi-annually; therefore, the ALJs reasoned, there is no reason to adjust rates quarterly. In addition, the ALJs explained that the Commission has approved semi-annual rate changes of the PTC for other EDCs in Pennsylvania. The ALJs recommended that the Commission adopt this provision in the Non-Unanimous Settlement and deny RESA's objections thereto. R.D. at 67.

### 4. Time of Use Rates

The ALJs concluded that RESA failed to show how PECO could satisfy the requirement at 66 Pa.C.S. § 2807(f)(5) to offer a TOU rate without spending ratepayer money. Rather, the ALJs found that the provisions in the Non-Unanimous Settlement for PECO's TOU rate offering are a reasonable first step to leverage the $5 million of ratepayer funds already spent to establish PECO's TOU rate program. Moreover, the ALJs stated that RESA failed to demonstrate how the evaluation of PECO's current TOU rate structure impacts the offering of competitive time-varying products by EGSs. The

ALJs recommended the approval of PECO's TOU rates set forth in the Non-Unanimous Settlement, without modification. R.D. at 69-70.

### 5. Standard Offer Program

The ALJs did not find the arguments of RESA and NRG persuasive on this issue. The ALJs noted that SOP programs are not mandated by the Competition Act or prescribed by the Commission's Regulations; therefore, the Commission has the power to make changes to the SOP design at any time. The ALJs distinguished the Commission's ruling in *PPL DSP V* from the instant proceeding because, in *PPL DSP V*, the Commission was unable to determine that any harm was occurring as a result of the SOP, but the existing SOP may be revised if evidence of harm is established. In contrast, the ALJs concluded that the evidence in the instant proceeding supports a finding that requiring affirmative action by the SOP customer to remain with their EGS at the expiration end of the SOP contract will encourage active customer choice, while addressing the evidence proffered by the OCA and TURN/CAUSE-PA regarding aggregate EGS charges over the last six years that exceeded PECO's PTC by over $800 million.

Therefore, the ALJs found that the Non-Unanimous Settlement's approach to encourage active shopping by customers, rather than automatically rolling customers onto contracts with their SOP EGS at prices above the PTC, is in the public interest. Furthermore, the ALJs disagreed with RESA's position that returning SOP customers that take no action at the expiration of the SOP term back to PECO constitutes slamming. Rather, the ALJs noted that customers will be advised, at the time they enter into SOP contracts after June 1, 2025, that they will be returned to default service unless they make an affirmative election to continue to shop with their SOP supplier or another EGS at the end of the 12-month SOP contract term. Accordingly, the ALJs recommended approval

of the Non-Unanimous Settlement's modification to the SOP because it is a reasonable, and limited, program term. R.D. at 87-89.

### 6. Bill Format

The ALJs found RESA's and NRG's arguments on this issue to be without merit. The ALJs concluded that PECO's proposed change to its bill format neither inhibits a customer from shopping with an EGS, nor precludes an EGS from conveying the value of its product through on-bill messaging or any other communications with customers. The ALJs stated that showing the EGS price paid by the customer and additional benefits provided by an EGS and the default service charges for the equivalent amount of generation supply does not suggest any inherent judgment nor is it precluded by the Competition Act. To the contrary, the ALJs concluded that PECO's proposed bill presentment changes will help customers understand and evaluate whether the EGS prices are consistent with expectations. Therefore, the ALJs recommended that the Commission reject RESA's argument that PECO's proposed bill format change violates the Competition Act and approve the associated provisions of the Non-Unanimous Settlement, without modification, as they are in the public interest and supported by the record. R.D. at 106.

### 7. Statewide Investigation of Default Service Messaging

The ALJs concluded that RESA failed to carry its burden of proving that changing the messaging of the default service product would allow EGSs to develop more innovative products and lower electric generation rates for customers. In addition, the ALJs found that any such statewide investigation should be initiated through a separate petition to permit all stakeholders to comment, rather than occurring in a single EDC's default service proceeding. Therefore, the ALJs recommended that the

Commission reject RESA's proposed statewide investigation into default service and the use of the PTC to evaluate EGS offers. R.D. at 98.

### 8. PECO Customer Information System Upgrade

The ALJs found that the record in this proceeding indicates that the technical issues raised by RESA regarding PECO's CIS have been resolved. The ALJs further concluded that RESA's speculation about future problems with the CIS does not support implementing and incurring the costs of new daily and weekly updates for all EGSs in PECO's service territory, new staff assignments to individual EGSs, or a new standard for interacting with the EGSs. Therefore, the ALJs recommended that RESA's CIS-related recommendations be rejected. R.D. at 109.

Based on the above, the ALJs recommended that the Non-Unanimous Settlement be approved, without modification, and that PECO's DSP VI be approved, as modified by the Non-Unanimous Settlement. R.D. at 113.

## D. Exceptions, Reply Exceptions, and Dispositions

As a preliminary matter, we note that any argument or Exception that we do not specifically delineate shall be deemed to have been duly considered and denied without further discussion. The Commission is not required to consider expressly or at length each contention or argument raised by the parties. *Consolidated Rail Corp. v. Pa. PUC*, 625 A.2d 741 (Pa. Cmwlth. 1993); *see also, generally, University of Pennsylvania v. Pa. PUC*, 485 A.2d 1217 (Pa. Cmwlth. 1984).

The Non-Unanimous Settlement, as proposed by the Joint Petitioners, resolves a variety of the issues necessary for the ultimate resolution of this proceeding. It also removes several issues that would have prolonged or required further litigation or

administrative proceedings. The benefits of approving the Non-Unanimous Settlement are numerous and will result in savings of time and expenses for all Parties involved by avoiding the necessity of further administrative proceedings, as well as possible appellate court proceedings, conserving precious administrative resources. Moreover, the Non-Unanimous Settlement provides regulatory certainty with respect to the disposition of issues which benefits all Parties. With the exception of the issue pertaining to the proposed modifications to PECO's SOP, as discussed in detail below under Section V.D.5. of this Opinion and Order, we agree with the ALJs' conclusions that the provisions of the Non-Unanimous Settlement are reasonable and in the public interest. Accordingly, with the modifications set forth in this Opinion and Order related to PECO's SOP, as discussed below in Section V.D.5, we shall modify the ALJs' recommendation and approve the Non-Unanimous Settlement, as modified, herein.

**1. RESA's Exception No. 5, Replies, and Disposition**

In its Exception No. 5, RESA argues that the ALJs erred in recommending approval of PECO's CPP proposal in the Non-Unanimous Settlement because it is anti-competitive and will result in price distortions, harming EGSs and customers. RESA remains of the opinion that PECO's CPP proposal violates the Competition Act because it will create an unlevel playing field in favor of default service over competitive service, as price distortions will result due to this option only being available to the default service supplier, while all other EGSs must seek other options in the market. RESA submits that the CPP provision in the Non-Unanimous Settlement will only insulate wholesale default service suppliers from the risk of not having the forward capacity auction price signals when bids are submitted to PECO for default service supply, because they can use the CPP calculated by PECO and be made whole for the difference when the price becomes known. RESA stresses its position that no similar options exist for EGSs. As such, RESA maintains that this provision will provide default service with an unfair competitive advantage creating an uneven playing field for default service over

competitive service. Furthermore, RESA argues that this provision will cause customer confusion because the PTC, which customers are familiar with comparing to EGS pricing, will include a later true-up after the forward capacity price is known. Finally, RESA restates its position that all LSE should be required to rely on the secondary market for capacity, which would maintain an equal playing field for default service suppliers and competitive generation suppliers, alike. Accordingly, RESA submits that the Commission should modify the ALJ's recommendation and reject PECO's CPP proposal. RESA Exc. at 20-24.

In reply, PECO argues that the CPP proposal is reasonable because it would address potential delays in capacity auctions held during the PECO DSP VI term. PECO avers that the CPP provision does not create an unfair competitive advantage for default service because EGSs can manage their risk associated with unknown PJM capacity prices in their products offerings. More specifically, PECO stressed, EGSs can offer contracts with any varying term lengths, in contrast to wholesale suppliers, who are limited to bid on 12-month and 24-month contracts in PECO's default service solicitations held two times each year. PECO also states that the CPP proposal will not lead to generation price distortion because all LSEs must pay the price established in PJM's auctions for their capacity obligation. Moreover, PECO notes that the Commission has approved the use of a CPP in other Pennsylvania EDCs' default service procurements because doing so would maintain diversity of supply and mitigate risk premiums. PECO R. Exc. at 3-5.

In its Replies to Exceptions, the OCA describes RESA's position on PECO's CPP proposal as unsound. The OCA notes that the Commission has previously approved the use of a CPP in default service procurements for the default service plans of other EDCs in Pennsylvania, due to the timing uncertainty of PJM's base residual auctions. The OCA contends that RESA has failed to acknowledge or distinguish these prior Commission orders. OCA R. Exc. at 14.

Upon review, we agree with the ALJs that PECO's CPP proposal in the Non-Unanimous Settlement is in the public interest because it is supported by the record and is consistent with prior Commission orders. The Commission has previously approved the use of a CPP in the default service procurements of other EDCs, finding that a CPP and true-up mechanism will maintain diversity of default service supply contracts, while mitigating embedded risk premiums if a portion of a fixed price full requirement would extend into an unpriced capacity period. See *Joint Petition of Metro. Edison Co., Pa. Elec. Co., Pa. Power Co., and West Penn Power Co. for Approval to Modify their Supplier Master Agreement*, Docket Nos. P-2020-3021424, *et al*. (Order entered October 13, 2020) at 9; *Petition of Metro. Edison Co., Pa. Elec. Co., Pa. Power Co., and West Penn Power Co. for Approval of their Default Serv. Plan for the Period from June 1, 2023 through May 31, 2027*, Docket Nos. P-2021-3030012, *et al*. (Order entered August 4, 2022, approving Recommended Decision issued June 29, 2022); *Petition of Duquesne Light Co. for Approval to Modify its Supplier Master Agreement*, Docket No. P-2020-3023149 (Order entered January 14, 2021) at 4. Here, we agree that allowing PECO to utilize a CPP will create certainty and improve price stability due to the likelihood that the capacity price will not be known ahead of several of PECO's upcoming default service supply solicitations.

Furthermore, we disagree with RESA's claim that the CPP and true-up mechanism is anti-competitive. There are differences between the business models and contractual obligations of EGSs and wholesale default service suppliers. Although the CPP will be available only to wholesale default service suppliers, EGSs have the flexibility to manage risk regarding unknown PJM capacity prices in the products they offer in the competitive market, including products to address issues arising from delays in PJM capacity auctions. For example, while wholesale default service suppliers can only bid on twelve- or twenty-four-month contracts in PECO's default service solicitations held twice each year, EGSs can offer products with any term length. *See*,

PECO R. Exc. at 4 (citing PECO St. 1-R at 20; PECO St. 4-R at 20-21). Therefore, we conclude that the CPP proposal will not negatively impact the competitive market.

For these reasons, we find the inclusion of PECO's CPP proposal to be in the public interest and will approve it. Accordingly, we shall deny RESA's Exception No. 5.

### 2. RESA's Exception No. 6, Replies, and Disposition

In its Exception No. 6, RESA argues that the ALJs erred in recommending approval of the term in the Non-Unanimous Settlement regarding the procurement plan for solar AECs, because it will prevent accurate comparisons between the default service rate and EGS pricing and therefore negatively impact the competitive market by distorting prices. Rather, RESA contends that the Commission should consider competitively neutral structures to ensure that the procurement of long-term contracts does not adversely impact the development of retail competition. RESA Exc. at 24-25.

In reply, PECO argues that RESA only hypothesized that a ten-year price for some AECs may accurately reflect the actual market price, and that RESA failed to show that PECO's long-standing practice of allocating solar AECs to wholesale suppliers would adversely impact the competitive market. Furthermore, PECO agreed with the position of Calpine, *supra,* that removing the EGSs' obligation to procure their own AECs would disincentivize EGSs from creating innovative products. PECO R. Exc. at 6.

The OCA avers that the ALJs correctly found that the term in the Non-Unanimous Settlement regarding PECO's procurement of additional solar AECs is supported by the record and is in the public interest. The OCA states that the Non-Unanimous Settlement reflects an agreement between PECO, EJA, and other parties that includes a commitment by PECO to acquire additional solar energy, capacity, and AECs

for the residential class. In the OCA's view, this compromise on solar AEC procurement and AEPS compliance supports approval of the Non-Unanimous Settlement as in the public interest. The OCA submits that RESA failed to provide any legal or factual basis to support any change in the long-standing methodology PECO has used to procure solar AECs. OCA R. Exc. at 14-16.

Calpine contends that RESA's proposal for a non-bypassable charge for solar AECs is anti-competitive and would hurt EGSs. Calpine states that EGSs are in the best position to manage the procurement of AECs and recover the associated costs because they can hedge their positions or procure their own solar AECs, and that an EGS that can successfully manage its AEC procurement will be better suited to create efficiencies and compete in the marketplace. Calpine suggests that, based on RESA's position on this issue, RESA may be having difficulty managing its procurement of AECs and is seeking relief from its business decisions and shortcomings. Calpine contends that there needs to be market consequences and accountability for lack of performance in a market, and that competitive solutions to handle costs and risks should not be stifled because RESA is trying to address its own business and operational management decisions. Calpine R. Exc. at 4-5.

PAIEUG argues that the ALJs correctly recommended approval of the solar AEC procurement plan proposed in the Non-Unanimous Settlement. PAIEUG points out that the Non-Unanimous Settlement does not require PECO to obtain AECs for its shopping customers. PAIEUG agrees that the ALJs reasonably found that RESA failed to provide any basis for changes to PECO's procurement. Further, PAIEUG avers that the solar AEC procurement proposal contained in the Non-Unanimous Settlement is reasonable, supported by the record, and in the public interest. PAIEUG R. Exc. at 4.

Upon review, we will adopt PECO's plan for compliance with the AEPS by allocating solar AECs to default service suppliers as set forth in the Non-Unanimous Settlement. We find no reason to change PECO's long-standing practice to allocate AECs delivered under its procurements to default service suppliers, which has been in place in PECO's default service plans since its initial solar procurement. Moreover, we agree with those parties that posited that RESA failed to provide any legal or factual basis to show that PECO's long-standing practice of allocating solar AECs to wholesale default service suppliers would negatively impact the competitive market or that any changes to this existing methodology are necessary. Furthermore, we conclude that EGSs can manage the procurement of AECs and recover the associated costs by hedging their positions or procuring their own solar AECS, which are readily available to them, and create opportunities to compete in the marketplace. For these reasons, we will approve the continuation of PECO's practice of procuring and allocating solar AECs to default service suppliers, as provided for in the Non-Unanimous Settlement, and we shall deny RESA's Exception No. 6.

### 3. RESA's Exception No. 7, Replies, and Disposition

In its Exception No. 7, RESA argues that the ALJs erred by recommending the approval of the provision in the Non-Unanimous Settlement for PECO to adjust default service rates semi-annually, rather than quarterly, because it divorces the default service rate from the current market rate, making markets less responsive and negatively impacting the ability of EGSs to price competitive supply options. RESA states that default service rates should be as market responsive as possible to better track the market price of electricity, and that less frequent adjustment of the default service rate will decrease market responsiveness of the default service rate. Also, RESA restates its position that a less frequent default service rate adjustment means that customers are not seeing the true cost of their default service, leading to a default service rate with less of a relationship to the market. Without any market responsiveness embedded in the default

service rate, RESA contends that it will be difficult for EGSs to establish competitive offers and will cause them to consider not entering a market. RESA Exc. at 25-26.

In reply, PECO states that the Commission has previously approved semi-annual PTC rate changes for all the other EDCs in Pennsylvania. In addition, PECO points out that adjusting default service rates for residential and small commercial customers every six months aligns with PECO's procurement schedule for those customers, balances the responsiveness of the PTC with current market conditions, and provides price stability benefits to customers. PECO R. Exc. at 6-7.

The OCA states that changing from quarterly to semi-annual adjustment of default service rates for residential and small commercial customers is reasonable. The OCA argues that RESA's theory that the default service rate should be aligned with spot market rates does not account for the particulars of PECO's revised default service procurement plans. The OCA avers that changing to semi-annual adjustment provides for greater rate stability for residential customers and aligns PECO with the practice of other EDCs. OCA R. Exc. at 16-17.

Upon review, we will approve the provision in the Non-Unanimous Settlement for PECO to adjust its default service rates semi-annually rather than quarterly. First, under the procurement plan set forth in the Non-Unanimous Settlement, approximately ninety-nine (99) percent of PECO's residential default service supply will be procured through fixed-price full requirements contracts that will end on May 31 or November 30 of each year, while only one percent will be purchased on the spot market. R.D. at 67. With contracts changing semi-annually, it is reasonable that rates be adjusted semi-annually as well. We do not agree with RESA's concern that semi-annual rate adjustments will decrease market responsiveness and impact competitive supply offerings from EGSs. Rather, we find that the proposed semi-annual rate changes will accurately

reflect and align with the procurement schedule for the majority of supply contracts for residential default service, which will end in May or November of each year.

In addition, we note that semi-annual default service rate changes have been approved for the other major EDCs in Pennsylvania. See, *Petition of Metro. Edison Co., Pa. Electric Co., Pa. Power Co., and West Penn Power Co. for Approval of their Default Service Plan for the Period from June 1, 2023 through May 31, 2027*, Docket No. P-2021-3030012, *et al*. (Order entered August 4, 2022, adopting Recommended Decision issued June 29, 2022); *Petition of Duquesne Light Co. for Approval of its Default Service Plan for the Period from June 1, 2021 through May 31, 2025*, Docket No. P-2020-3019522 (Opinion and Order entered January 14, 2021); *Petition of PPL Elec. Utils. Corp. for Approval of a Default Service Program for the Period June 1, 2015 through May 31, 2017*, Docket. No. P-2014-2417907 (Opinion and Order entered January 15, 2015). Therefore, the provision in the Non-Unanimous Settlement for PECO to make semi-annual adjustments to its default service rates is consistent with the frequency of default service rate adjustments of the other major EDCs in Pennsylvania.

We shall adopt the term in the Non-Unanimous Settlement for semi-annual PTC rate adjustments because it is reasonable and in the public interest. Accordingly, we will deny RESA's Exception No. 7.

### 4. RESA's Exception No. 8, Replies, and Disposition

In its Exception No. 8, RESA argues that the ALJs erred by recommending approval of the term in the Non-Unanimous Settlement whereby PECO will conduct an evaluation of its TOU program, because it is unnecessary since TOU products are better provided by EGSs. RESA recognizes the statutory mandate that EDCs must offer a TOU rate, but RESA does not believe EDCs should spend customer money to develop products that should be delivered by the competitive market because EGSs are best positioned to

provide enhanced features and solutions with respect to TOU rates. Furthermore, RESA avers that the Competition Act envisioned TOU products being offered by EGSs. RESA Exc. at 27-28.

PECO, in response, contends that the ALJs properly found that PECO's evaluation of its TOU rates is appropriate. PECO states that the one-time evaluation of its TOU rates is a reasonable first step to leverage the $5 million already spent to implement its existing TOU rate options, which has been previously recovered through default service rates. PECO R. Exc. at 7-8.

The OCA avers that the ALJs' recommended approval of the TOU evaluation is consistent with PECO's legal obligations, is supported by the record, and is in the public interest. The OCA agrees with the ALJs' conclusion that RESA has not shown how PECO could fulfill its statutory obligation to offer a TOU rate without spending ratepayer money, nor has RESA explained how the evaluation of TOU rates will negatively impact the ability of EGSs to offer competitive time-varying products. OCA R. Exc. at 18-19.

Upon review, we agree with the ALJs that the term in the Non-Unanimous Settlement providing for an evaluation of PECO's TOU program should be approved. Pursuant to the Competition Act, PECO is obligated to offer TOU rate options to eligible default service customers. 66 Pa.C.S. § 2807(f)(5). PECO, in its DSP VI, will continue its current TOU options for residential and small commercial customers. We agree with the Joint Petitioners that a one-time evaluation of PECO's current TOU rate structure is a reasonable step in leveraging the $5 million investment of ratepayer funds already expended to establish the TOU rate offering. *See*, OCA M.B. at 15. We find that an assessment and analysis of enrollment rates, customer characteristics and preferences, and seasonal variation is a sensible approach to considering potential adjustments to the TOU rate offering. Moreover, we find no merit or support for RESA's claims that this

evaluation will negatively impact the ability of EGSs to offer competitive time-varying products. Conducting an evaluation, as described in Paragraph No. 47 of the Non-Unanimous Settlement, does not preclude EGSs from offering alternative TOU products as they see fit. Therefore, we will approve the provision in the Non-Unanimous Settlement calling for an evaluation of PECO's TOU rates. Accordingly, RESA's Exception No. 8 is denied.

### 5. RESA's Exception No. 4, NRG's Exception No. 2, Replies, and Disposition

In its Exception No. 4, RESA argues that the ALJs erred by recommending approval of certain revisions to PECO's SOP in the Non-Unanimous Settlement. RESA avers that the Recommended Decision on this issue lacks evidentiary support, will fail to achieve the stated goals of the revisions, and will lead to the end of the SOP. RESA submits that just because EGS customers may be paying more than the default service rate does not prove that a harm is occurring, because customers could make decisions to shop with an EGS based upon the product offered or the length of the contract, rather than price. RESA describes the proposed revisions to the SOP as a solution in search of a problem. In addition, RESA argues that the data used to support SOP revisions comes from all shopping customers and is not limited to customers shopping by way of the SOP, which is an unreasonable basis upon which to make improper changes. RESA agrees that the Commission may consider revisions to the SOP if a showing of harm is made; however, RESA contends that no showing of harm has been made here. Furthermore, RESA avers that the record evidence does not support proposed revisions to the SOP because a customer satisfaction survey of SOP participants showed that eighty (80) percent of respondents reported a positive experience with PECO's SOP. Moreover, RESA submits that automatically returning EGS customers to default service upon SOP contract expiration is improperly intended to influence an EGS's pricing decisions. RESA further contends that the proposed revisions to the SOP will not encourage

customer choice but will likely result in the end of the SOP because EGSs will not participate. Finally, RESA states that it would prefer the discontinuance of PECO's SOP rather than the Commission adopt the revisions set forth in the Non-Unanimous Settlement. RESA Exc. at 14-20.

In its Exception No. 2, NRG contends that the revisions to the SOP to automatically transfer SOP customers to the default service constitute slamming and violate the Competition Act. NRG states that the revisions to the SOP will no longer allow a SOP customer to choose to enroll with an EGS. NRG also argues that the revisions to the SOP in the Non-Unanimous Settlement conflict with prior Commission decisions, and the record evidence does not support the changes. NRG Exc. at 5-8.

In response, PECO argues that RESA and NRG failed to establish any reason for the revisions to the SOP to be rejected. PECO states that SOPs are not mandated by the Competition Act, and the design of such programs is not prescribed by regulation. PECO avers that the revisions to the contract options at the expiration of the SOP contract preserve the original purpose of the SOP by introducing customers to the competitive market and addresses the concerns about SOP customers unknowingly being rolled onto contracts with their SOP supplier at prices above the PTC. Also, PECO disagrees that returning SOP customers to default service at the end of the SOP period is anti-competitive. In this regard, PECO reasons that, a customer would not be prevented from making their own shopping decisions because, at any time, they can switch to another EGS, return to default service, or choose to remain with their SOP supplier in response to the notices required by the Commission's Regulations. Finally, PECO states that the SOP is voluntary, and nothing prevents EGSs from offering shopping customers any contract price they desire at the end of the SOP contract term; however, the customer must make an affirmative choice to remain with the SOP supplier. PECO R. Exc. at 9-11.

The OCA states that approval of the revisions to the SOP is supported by the record evidence, consistent with law and policy, and in the public interest. The OCA submits that the evidence in the record demonstrates that customers that switch to an EGS, in aggregate, end up paying more than if they had remained on default service. The OCA avers that this harm supports the revisions to the SOP in the Non-Unanimous Settlement to require that customers make an affirmative choice to remain with their SOP supplier at the end of their SOP contract or be returned to default service. The OCA further states that RESA's and NRG's positions lack evidentiary support. OCA R. Exc. at 5-7.

With respect to the claims that the revisions to the SOP are unlawful, the OCA argues that no case, statute, or other legal authority to support its claim was cited, other than a passing reference to the prior *PPL DSP V* Order. OCA R. Exc. at 7. The OCA argues that the Commission has the authority under the Competition Act to bend competition where necessary. *Id*. at 9 (citing *RESA* at 1221; *CAUSE-PA* at 1103; 66 Pa.C.S. §2801, *et seq*). The OCA further argues that the agreement in the Non-Unanimous Settlement "to require customers to be returned to default service at the conclusion of their SOP contract absent an affirmative choice to remain with their supplier meets the threshold needed for the Commission to bend competition." OCA R. Exc. at 9..

TURN/CAUSE-PA argues that the record evidence demonstrated the harm "that suppliers charged in excess of $800 million more to residential shopping customers than they would have experienced under default service and that confirmed low-income customers experienced the highest EGS charges." TURN/CAUSE-PA R. Exc. at 3 (citing TURN/CAUSE-PA R.B. at 3). TURN/CAUSE-PA states that the record evidence supports the revisions to the SOP. TURN/CAUSE-PA R. Exc. at 3, 5. Furthermore, TURN/CAUSE-PA avers that RESA's and NRG's concerns regarding the potential impacts on the market for EGS supply, and the contention that proposed revisions to the SOP are intended to influence EGS pricing decisions, are unsupported. *Id*. at 5-6. Moreover, TURN/CAUSE-PA argues that the SOP is not legislatively mandated;

therefore, the Commission may alter it. TURN/CAUSE-PA submits that the revisions to the SOP will encourage active customer choice instead of a passive rollover into a new contract, which is in the public interest. *Id*. at 7.

On review, we shall modify the ALJs' recommendation on this issue. The Commission issued final guidelines for program structure of SOPs in the Commission's *RMI IWP Final Order*. These final guidelines were developed at the end of a nearly three-year investigation by the Commission into Pennsylvania's retail electricity market (retail market investigation or RMI). The RMI involved, *inter alia*, an open process in which the Commission's staff received and reviewed the comments of various interested stakeholders to develop an appropriate structure for SOP to be implemented in EDC default service plans. *See RMI IWP Tentative Order* at 9-15 (details the history of the development of SOP in Pennsylvania).

In the *RMI IWP Final Order*, the Commission considered the comments of interested stakeholders regarding the Commission's tentative guidelines for SOP program structure. The Commission noted that the interested stakeholders that commented on the tentative guidelines were generally favorable of a SOP. *RMI IWP Final Order* at 30. After giving full consideration of the comments of interested stakeholders, the Commission directed that SOP proposals be included in EDC Default Service Plans, whereby detailed implementation and logistical elements would be determined during each EDC's default service plan proceeding. *RMI IWP Final Order* at 31. To provide direction to each EDC to develop a specific SOP proposal for its service territory, the Commission provided certain guidelines with its expectations of an acceptable SOP program structure. With respect to the specific issue regarding what occurs at the expiration of the SOP contract, the Commission stated:

> At the conclusion of the standard offer period, absent affirmative customer action to enter into a new contract with

> the EGS, the customer's enrollment with a different EGS or the customer's return to default service, the customer will remain with the EGS on a month-to-month basis, and shall not be subject to any termination penalty or fee. However, this should not deter an EGS from offering longer, fixed-term prices.

*RMI IWP Final Order* at 31-32.

PECO's SOP was first established in 2013. Since its inception, and through August 2023, the SOP has resulted in over 282,000 customer referrals to EGSs that have voluntarily chosen to offer customers a twelve-month contract priced at seven percent below PECO's default service rate. During PECO's DSP V, over 50,000 customers were referred to participating EGSs. Petition at 20.

As discussed, *supra*, the Non-Unanimous Settlement includes a term that would require EGSs entering into SOP contracts with customers after June 1, 2025, to automatically transfer SOP customers to default service upon the expiration of the SOP contract unless the customer affirmatively elects to remain with the SOP supplier. Joint Petition at 17, ¶¶ 63-64. We shall decline to adopt this proposed modification to the SOP at this time. Upon review, we find that the Joint Petitioners failed to satisfy their burden of proof in demonstrating with substantial evidence: (1) the existence of a harm to SOP customers associated with the existing SOP program rules; and (2) that no reasonable alternative exists to the proposed modifications. *See RESA at* 1208; *CAUSE-PA* at 1103-04.

The Commission has previously addressed this issue in *PPL DSP V*. In *PPL DSP V*, PPL Electric proposed that if a customer does not make an affirmative election at the end of their SOP contract term, the customer will be required to return to default service rather than be rolled over into a contract with their existing EGS. Inasmuch as the proposed SOP modification in the instant proceeding is similar to the

one in *PPL DSP V*, we find the Commission's determination in *PPL DSP V* to be instructive here. In the Commission's Final Opinion and Order in *PPL DSP V*, the Commission explained the purpose of the SOP:

> The purpose of the SOP is to enhance choice and facilitate the development of retail markets through the increased participation of residential and small commercial customers in the retail electricity market. Essentially, the SOP is a Commission-approved, standard EGS product offering containing various restrictions on price and terms of service. An EDC is permitted to inform a customer of this standard EGS product offering after a customer specifically asks about it. Any customer who is interested in the SOP is transferred from PPL Electric to a separate, dedicated third-party service provider that will provide more detail regarding the SOP and enroll customers in the SOP. At that point, the EDC – PPL Electric – has no further role in administering the SOP.

*PPL DSP V* at 92-93 (Footnotes omitted). The Commission continued to explain:

> Once a customer is enrolled with the EGS SOP, it is the EGS, not the EDC, that provides generation supply pursuant to the SOP contract price and terms of service. Also, it is the EGS, not the EDC, that is required to adhere to existing customer notification requirements, including notices and the timing of those notices relating to proposed changes in the terms and conditions of the EGS-customer relationship. *See RMI IWP Final Order* at 32; *see also* 52 Pa. Code § 54.10. Thus, even though the SOP serves to "bridge the gap" in forming a relationship between a customer and an EGS, once a customer is enrolled with the EGS, the customer has a direct relationship with the supplier and the supplier has the responsibility of providing all required notices to the customer relating to the expiration of the SOP fixed duration contract.

*Id*. at 94.

In *PPL DSP V*, the Commission further described the Regulation that addresses what occurs upon the expiration of a fixed duration contract with an EGS and how it related to the SOP:

> Under our existing Regulations, a customer who is served by an EGS and who does not demonstrate an affirmative election to remain with the EGS upon the expiration of a fixed duration contract is automatically renewed with the EGS with no cancellation fees. *See* 52 Pa. Code § 54.10(3)(i)(A)-(B). The customer remains with the EGS under the renewal product until the customer affirmatively chooses one of the following options: (1) selects another product offering from the existing EGS; (2) enrolls with another EGS; or (3) returns to the default service provider. 52 Pa. Code§ 54.10(3)(ii)(A)-(C). Thus, it is well-established that a lack of action on the part of the customer results in the customer being automatically renewed with the same EGS. To ensure customers are informed of their options and not penalized for a lack of action, EGSs are required to: (1) provide proper notice to their customers prior to the end of the contract; and, (2) not impose any cancellation fees on a contract that automatically renews. *See* 52 Pa. Code § 54.10(1)-(2).
>
> The final guidelines established in the *RWI IWP Final Order* relating to SOP program design were consistent with these existing requirements in Section 54.10. Specifically, the final guidelines provide:
>
> - All existing customer notification requirements apply, including notices and the timing of those notices relating to proposed changes in the terms and conditions of the EGS-customer relationship.
>
> - At the conclusion of the standard offer period, absent affirmative customer action to enter into a new contract with the EGS, the customer's enrollment with a different EGS or the customer's return to default service, the customer will remain with the EGS on a month-to-month basis, and shall not be subject to any termination penalty or fee. However,

> this should not deter an EGS from offering longer, fixed-term prices.

*PPL DSP V* at 94-95 (citing *RMI IWP Final Order* at 32).

Based on the discussion above, the Commission, in *PPL DSP V*, found that the modification to the SOP requiring customers to return to default service at the end of the SOP contract term if they do not make an affirmative election regarding supply is inconsistent with 52 Pa. Code § 54.10 and the final guidelines in the *RMI IWP Final Order;* therefore, it was determined to be a restriction on competition. *PPL DSP V* at 95. The Commission explained that the Commonwealth Court has held that a restriction on competition is necessary when there is a harm associated with competition, and there is no reasonable alternative to the rule that restricts competition. *Id*. at 95-96 (citing *RESA* at 1228 and *CAUSE-PA* at 1103-04).

In *PPL DSP V*, the evidence offered by PPL Electric to demonstrate harm included statistics generally showing the percentage of customers on roll-over contracts with the SOP EGS after the expiration of the SOP contract and the percentage of those customers paying rates higher than the default service rate. By showing that certain SOP customers are paying for generation supply above the applicable default service rate or PTC within four months following the expiration of the SOP contract, PPL Electric argued that this overpayment may cause a rise in payment-troubled SOP customers, reputational harm to PPL Electric, concerns of shopping-reluctant customers regarding shopping, and harm to the retail market. However, the Commission concluded that such concerns were not supported by substantial evidence in the record because there was no evidence to support the results of overpaying for generation supply, such as: "(1) an increase in customer complaints specifically relating to the Company's SOP and a related increase in costs incurred by PPL Electric in handling such complaints; (2) an inability of customer service representatives to effectively address customer complaints; (3) an

increase in payment-troubled SOP customers; (4) an increase in collection activity or service terminations among SOP customers due to the rise of overdue billings; or (5) an increase in the Company's uncollectible expense relating to an increase in payment-troubled SOP customers." Because the record did not support that a harm was occurring as a result of the SOP, the Commission rejected PPL Electric's proposed modification to the SOP. Additionally, the Commission also found that PPL Electric failed to demonstrate that no reasonable alternative existed to the proposed modification. *PPL DSP V* at 96-98.

Turning to the instant case, we find that the evidence offered by the Joint Petitioners to support the proposed modification to PECO's SOP, by attempting to show that harm results to PECO SOP customers due to the existing SOP rules, is insufficient and inconclusive. The evidence offered shows that over the last six years, PECO customers have paid more to suppliers, than compared to the PTC, in an amount over $800 million more than those customers would have paid if they had remained on default service.[15] *See*, R.D. at 88; OCA M.B. at 18; TURN/CAUSE-PA R.B. at 9. While this data shows that shopping customers may have paid substantially more over the last six years than they would have if they had remained on default service, similar to *PPL DSP V*, no evidence was offered to support the results, specific to SOP customers, of overpaying for generation supply associated with PECO's existing SOP, such as: (1) an increase in customer complaints specifically relating to PECO's SOP and a related increase in costs incurred by PECO in handling such complaints; (2) an inability of customer service representatives to effectively address customer complaints; (3) an increase in payment-troubled SOP customers; (4) an increase in collection activity or service terminations among SOP customers due to the rise of overdue billings;[16] or (5) an

[15] This amount is not limited to only SOP shopping customers. OCA M.B. at 20.

[16] We recognize that witnesses on behalf of TURN/CAUSE-PA and the OCA testified that increased termination rates for low-income shopping customers is an

increase in PECO's uncollectible expense relating to an increase in payment-troubled SOP customers. To the contrary, the record evidence in this case also includes reference to a customer satisfaction survey of SOP participants between June 2021 and June 2023 showing that eighty (80) percent of respondents reported a positive experience with PECO's SOP. *See* RESA Exc. at 17 (citing PECO St. No. 1 at 30).

Similar to the Commission's determination in *PPL DSP V*, we find that the record does not support that a harm has occurred as a result of the SOP.[17] We also agree with RESA that customers paying more for EGS service than the PTC does not necessarily prove that a harm is occurring, because customers could be making shopping decisions based on factors other than price, such as the specific product offered or the length of the contract. *See* RESA Exc. at 15-16. Further, we note that the Joint Petitioners did not demonstrate that no reasonable alternative exists to the proposed modifications to the SOP. Therefore, we will reject the proposed modification to PECO's SOP in the Non-Unanimous Settlement.[18] We note that doing so maintains consistency among SOP programs across the Commonwealth, as well as with the Commission's Regulations. Accordingly, we shall grant RESA's Exception No. 4 and NRG's Exception No. 2, and modify the ALJs' Recommended Decision, consistent with this Opinion and Order.

---

example of the harm that results from shopping customers overpaying as compared to the default service rate. See TURN/CAUSE-PA St. 1 at 18; OCA St. 2-R at 3-4. However, this alleged harm appears to be a conclusion resulting from customers generally shopping with EGSs rather than a harm, specific to SOP customers, associated with PECO's existing SOP.

[17] Should PECO, by its next default service proceeding, present new evidence that demonstrates harm from the existing SOP program design, we would consider any and all such evidence on a *de novo* basis.

[18] Because we are rejecting the proposed modification to PECO's SOP for the reasons stated above, we do not need to address or consider RESA's and NRG's claims that the proposed modification to automatically transfer SOP customers to default service constitutes slamming, in violation of the Competition Act.

Based on the foregoing, we shall modify the Non-Unanimous Settlement by striking Paragraph No. II.12.F.64 and shall direct PECO to continue its SOP in accordance with our Regulations at 52 Pa. Code § 54.10 and the *RMI IWP Final Order* by providing that at the conclusion of the standard offer period, absent affirmative customer action to: (1) enter into a new contract with the EGS; (2) enroll with a different EGS; or (3) return to default service; the customer shall remain with the EGS on a month-to-month basis, and not be subject to any termination penalty or fee.

We note that in accordance with the provisions of the Non-Unanimous Settlement, should any of the Settling Parties wish to withdraw from the Non-Unanimous Settlement based on this modification, that Party shall e-file or hand deliver to the Secretary of the Commission and serve on all Parties to this proceeding an election to withdraw within five (5) business days from the date that this Opinion and Order is entered. If such an election to withdraw is filed, the Non-Unanimous Settlement shall be disapproved, without further action by this Commission, and this matter shall be returned to the Commission's Office of Administrative Law Judge for further action as deemed appropriate. Joint Petition at 21-22, ¶ 77.

### 6. RESA's Exception No. 3, NRG's Exception No. 1, Replies, and Disposition

In its Exception No. 3, RESA argues that the ALJs erred by recommending approval of the term in the Non-Unanimous Settlement providing for PECO to place a bill comparison chart on the first page of shopping customer bills, because it is anti-competitive and misleading to customers. RESA states that the Recommended Decision is incorrect in stating that an EGS has the ability to convey the value of its product through on-bill messaging, and that there is no opportunity for EGSs to include any EGS-specific messaging on the first page of the bill because EGSs are only given limited messaging space on the last page of the PECO bill, and they are unable to provide

customer-specific messaging. RESA further states that the chart will not be helpful to customers because nothing contained in this proposal offers to provide any information about what PECO knows, or does not know, about a specific EGS contract. Rather, RESA contends that the inclusion of this information on the bill, without any other information, will cause customer confusion. RESA also argues that the addition of this bill comparison chart, without any disclaiming language on the same page, violates PECO's legal obligations regarding marketing. Furthermore, RESA avers that adding a chart with a calculation of existing EGS bill charges and what PECO would have billed if the customer were on default service, judges the customer's choice of EGS in relation to default service and improperly promotes the idea that default service is superior. For these reasons, RESA contends that the proposed chart serves no purpose but to reinforce seriously flawed pricing comparisons, sending the implicit message that a higher EGS bill is inherently bad, which violates the Competition Act. RESA Exc. at 11-14.

In its Exception No. 1, NRG, likewise, argues that the proposal to add a comparison chart on the first page of customer bills will be misleading and anti-competitive, in violation of the Competition Act. Without any context or information for consumers to understand, NRG claims that including the proposed comparison chart will suggest misleading messaging that paying less than the default service rate is the goal of shopping. Further, NRG avers that the comparison chart violates the Competition Act because it implies a judgment from the EDC on the customer's shopping choices. Moreover, NRG submits that the comparison chart is anti-competitive because it is an unlawful exercise of market power by PECO as it will discourage shopping, and no other EDC has a similar comparison chart on the bill. NRG Exc. at 2-4.

PECO, in reply, submits that RESA's and NRG's arguments are without merit. PECO contends that the proposed chart will not inhibit customers from shopping with an EGS, nor does it preclude an EGS from conveying the value of its product through on-bill messaging or other communications with customers. PECO avers that

there is no judgment in showing the EGS price a customer is paying for generation service, and the additional benefits an EGS provides, and default service charges for the equivalent amount of generation. Finally, PECO argues that the Competition Act does not preclude the proposed change to the bill format. PECO R. Exc. at 11-12.

The OCA argues that the proposed change to PECO's residential bill format is supported by the record and is in the public interest. The OCA states that the bill graphic concept was the product of a stakeholder collaborative that included EGSs. The OCA contends that the ALJs correctly found that RESA's and NRG's arguments, that PECO's billing format proposal is anti-competitive or violates the Competition Act, to be without merit. The OCA avers that the ALJs' conclusion that the proposed modification to the PECO bill format is vital to helping customers understand and evaluate whether their EGS prices are consistent with their expectations is well-supported and in the public interest. OCA R. Exc. at 4-5.

TURN/CAUSE-PA disagrees with RESA's argument that this change precludes EGSs from conveying the value of their product on the bill via on-bill messaging or other customer communications, because EGSs retain the ability to communicate through the PECO bill and other strategies beyond the bill. TURN/CAUSE-PA states that the proposed graphic price comparison is vital to help customers because it will encourage customers to evaluate their experience in light of the agreement with the EGS. Furthermore, TURN/CAUSE-PA argues that RESA's and NRG's contention that the addition of the comparison chart is anti-competitive is incorrect because a price comparison is a simple and neutral depiction of the calculated cost of EGS supply alongside the PTC. TURN/CAUSE-PA R. Exc. at 11-14.

Upon review, we find that PECO's inclusion of the graphic on the first page of the residential customer bill, that compares the customer's total supplier charges for the billing period with what the dollar amount charges would be under PECO's PTC based

upon the customer's usage during the billing period, is reasonable and in the public interest. We find this bill format change will serve as an additional, beneficial consumer education tool to provide shopping information to customers in a clear and transparent manner. We note that providing this new bill comparison chart was developed as a result of a stakeholder collaborative discussion in which several EGSs participated. Furthermore, we disagree with RESA and NRG that the bill comparison chart will be misleading. The bill comparison chart will simply provide customers with an additional educational tool to view and understand a dollars and cents comparison between their EGSs' prices and the PTC. In addition, PECO will continue to provide adequate space on the bill for EGSs to provide additional information to describe their products and pricing for customers as they desire.

Moreover, we agree with the ALJs that the inclusion of the bill comparison chart on customer bills is not anti-competitive or in violation of the Competition Act. The proposed bill comparison chart does not inhibit or prohibit a customer from shopping with an EGS. The bill comparison chart provides no inherent judgments or conclusions regarding EGS prices versus the PTC; rather, it simply provides a factual illustration of what those prices are at the current time of billing. RESA's argument that the inclusion of the bill comparison chart will improperly promote the idea that default service is superior is based on speculation and is unpersuasive, as it appears to assume that the PTC will be lower than the EGS pricing.

However, the opposite could also be argued. Assuming *arguendo*, that RESA's argument regarding product superiority is correct (which we do not find to be the case here), a legitimate position could follow that if the EGS pricing is lower than the PTC, then the idea that EGS pricing is superior to the PTC could be promoted. Here, we find that providing a factual depiction of EGS pricing and the PTC on a customer's monthly bill will not provide any inherent judgment or conclusions about product superiority, but will simply provide an additional consumer education tool for customers to understand and use to make informed decisions regarding their shopping choices.

Therefore, we conclude that the inclusion of the bill comparison chart on customer bills is not anti-competitive. Accordingly, we will adopt the provision in the Non-Unanimous Settlement to include the bill comparison chart on customer bills, and we shall deny RESA's Exception No. 3 and NRG's Exception No. 1.

### 7. RESA's Exception No. 1, NRG's Exception No. 3, Replies, and Disposition

In its Exception No. 1, RESA argues that the ALJs erred by recommending that the Commission reject RESA's proposal for a statewide investigation into messaging regarding the PTC. RESA states that the default service rate is viewed as the one to which all EGS pricing offers are to be compared; however, RESA avers that it is undisputed that the default service rate is calculated and developed differently than EGSs calculate and develop competitive prices. RESA also argues that the default service rate is only offered by the EDC, who enjoys inherent advantages due to name recognition and its long-standing relationship with customers, and that most residential customers choose to remain on default service. RESA claims that the marketing of the default service rate as the PTC hampers an EGS' ability to offer a variety of innovative products. In support of its proposed statewide investigation, RESA contends that other examples exist where the Commission has opened a statewide investigation to consider issues of broad applicability, and that the Commission and appellate courts have determined that a default service proceeding is the opportunity for competitive suppliers to raise issues related to the EDC's default structure and other mechanisms impacting EGSs. RESA Exc. at 4-8.

In its Exception No. 3, NRG agrees with RESA that the ALJs erred in not recommending RESA's proposal for a statewide investigation. NRG argues that RESA met its burden of proof to support the proposal, and that the Recommended Decision erred by concluding that such a statewide investigation should be initiated through a

separate petition to the Commission. NRG contends that no procedural or substantive reason was offered to require consideration of RESA's proposal only through a separate petition. NRG states that it is unreasonable and unjustified to deny a request to investigate an issue of concern on this procedural basis. NRG avers that there is enough evidence to conclude that further investigation is warranted. NRG Exc. at 9-10.

In reply, PECO argues that the Recommended Decision correctly concluded that RESA's proposal for a statewide investigation into PTC messaging is unnecessary and unsupported. PECO submits that the ALJs' determination that RESA failed to carry its burden on this issue is correct because RESA's fundamental premise in support of its argument for a statewide investigation was that the market was stagnant. PECO argues, however, that RESA failed to properly consider important issues, including the extent of load actually served by EGSs, the extent of prior customer switching, or reasons why customers returned to default service. Further, PECO avers that RESA and NRG are seeking to initiate a fundamental re-examination of default service issues throughout Pennsylvania without the input of other parties regarding the merits of such an investigation. PECO states that there is nothing precluding RESA and NRG from filing an appropriate petition with the Commission if they want to pursue their proposal. PECO R. Exc. at 12-14.

The OCA also agrees that the ALJs properly recommended that RESA's proposal for a statewide investigation be rejected. The OCA states that RESA's arguments in support of its proposal are misplaced and were properly rejected by the ALJs. The OCA submits that there is no credible evidence in the record to suggest that the reforms proposed by RESA are necessary, and that the well-reasoned Recommended Decision on this issue should be adopted. With respect to NRG's disagreements with the ALJs' conclusion that a stand-alone petition is more appropriate for such a request, the OCA argues that initiating a request for a statewide investigation in a single EDC's default service proceeding is flawed because the issue is not limited to only PECO. The

OCA adds that because this is an issue of statewide significance, there is an issue as to notice to stakeholders. OCA R. Exc. at 1-4.

TURN/CAUSE- PA contends that opening a statewide investigation would constitute an unnecessary waste of time. TURN/CAUSE-PA avers that messaging regarding shopping for EGS supply and the PTC has been consistent for decades and aligned with the core statutory objective of the Competition Act: to benefit consumers with lower costs. TURN/CAUSE-PA argues that RESA's proposal is intended to distort price comparisons so that EGSs can charge higher generation rates to customers. TURN/CAUSE-PA states that there is no evidentiary support that the PTC impedes EGSs from competing to attract customers or developing innovative products. To the contrary, TURN/CAUSE-PA relies upon evidence that nearly 100 EGSs are competing to serve PECO customers, and that EGSs currently serve 52% of total electric load in PECO's service territory. TURN/CAUSE-PA submits that RESA failed to show how messaging regarding price comparisons affects the products that EGSs are capable of developing. TURN/CAUSE-PA further argues that the record evidence supports that EGS pricing information needs to be made clearer for customers, and not that structural problems exist with the market for electricity in Pennsylvania. TURN/CAUSE-PA R. Exc. at 8-11.

PAIEUG similarly contends that the ALJs correctly determined that any statewide investigation should be initiated through a separate petition. PAIEUG avers that a statewide investigation should permit all stakeholders the ability to comment. PAIEUG further argues that if RESA and NRG seek a statewide investigation, then a separate petition is the best means by which to alert EDCs, EGSs, and all other interested stakeholders of the issues being reviewed. Therefore, PAIEUG states that the ALJs correctly concluded that RESA's request for a statewide investigation should be filed as a separate proceeding. PAIEUG R. Exc. at 2-3.

Upon review, we conclude that a statewide investigation into messaging regarding the PTC is not supported by the record and is unnecessary at this time. RESA and NRG failed to prove that changing default service messaging would lead to more competitive products in the marketplace. *See* R.D. at 94. While RESA argued for a statewide investigation due to a stagnant market, PECO countered with evidence that over fifty (50) percent of its load is being served by EGSs, and that many customers have returned to default service because EGSs have been charging more than PECO's default service rates. *See* PECO M.B. at 19-20. RESA and NRG were unable to demonstrate why a statewide investigation to consider eliminating the PTC is reasonable at this time.

In addition, we agree with the parties who contended that initiating a proceeding for a statewide investigation of default service issues throughout Pennsylvania without the input of other important stakeholders is not appropriate based upon a single EDC's default service proceeding. Rather, the better approach to seek the initiation of a statewide investigation into default service issues that could impact customers across the Commonwealth would be through a separate petition that would permit all interested stakeholders to participate and comment in a separate proceeding.

Therefore, we will deny RESA's and NRG's proposal for a statewide investigation into default service messaging. Accordingly, RESA's Exception No. 1 and NRG's Exception No. 3 are denied.

### 8. RESA's Exception No. 2, NRG's Exception No. 4, Replies, and Disposition

In its Exception No. 2, RESA argues that the ALJs erred by failing to recommend that the Commission adopt RESA's proposal for PECO to work collaboratively with competitive suppliers during the implementation period for PECO's new CIS. RESA claims that neither PECO, nor the other Settling Parties, considered

proposed suggestions for future processes to potential future failures related to CIS upgrades. RESA further states that PECO only addressed the issues set forth in the record after significant confusion and problems resulted for customers and EGSs. RESA submits that it is still necessary to set up future process improvements to address situations as they arise in a reasonable manner because the issues that occurred had real impacts on customers. RESA Exc. at 8-10.

In its Exception No. 4, NRG agrees with RESA's proposal because it is intended to deal with ongoing and future technical issues. NRG claims that the Recommended Decision incorrectly concluded that the issues raised by RESA have been resolved. NRG argues that RESA's proposal is not unreasonable and is in the public interest in order to protect customers from being negatively impacted when utility systems fail to properly facilitate the ability of EGSs to serve them. NRG Exc. at 11.

In reply, PECO avers that the ALJs properly determined that RESA's CIS-related proposals should not be adopted in this proceeding. PECO states that, prior to the CIS upgrade, it initiated a collaborative with suppliers that included webinars and bulletins providing detailed information regarding the CIS upgrade and the transition to new Choice IDs. PECO further states that it actively worked to fully resolve all technical issues that were raised by RESA. PECO contends that implementing a new regime of daily and weekly updates for 98 EGSs and new staff assignments to individual EGSs is not warranted or necessary, and that such recommendations would be overly burdensome because PECO's staff handling EGS inquiries consists of four (4) people. PECO R. Exc. at 14.

The ALJs found that the record in this proceeding indicated that the technical issues raised by RESA regarding PECO's recent CIS implementation have been resolved. The ALJs further concluded that RESA's claims about potential future problems is speculative and provides no grounds for PECO to take on new costs that may

not be necessary. R.D. at 109. We agree. PECO's implementation of a new CIS is complete, and any technical issues identified by RESA have been resolved. We do not believe that it would be reasonable to put new requirements in place now to avoid potential operational issues in the future. In fact, doing so at this time would be based on speculation and would create additional costs and burdens that are not necessary or warranted based on the record in this proceeding. Therefore, we shall deny RESA's and NRG's recommendation regarding PECO's CIS, and we will deny RESA's Exception No. 2 and NRG's Exception No. 4.

## VI. Conclusion

For the reasons set forth above, we shall approve the Joint Petition for Non-Unanimous Settlement, as modified, consistent with this Opinion and Order. Additionally, we shall: (1) grant, in part, and deny, in part, the Exceptions of RESA and NRG; and (2) modify the Recommended Decision of ALJs Eranda Vero and Arlene Ashton, consistent with this Opinion and Order; **THEREFORE,**

**IT IS ORDERED:**

1. That the Exceptions of the Retail Energy Supply Association, filed on September 10, 2024, to the Recommended Decision of Administrative Law Judges Eranda Vero and Arlene Ashton, issued on September 3, 2024, are granted, in part, and denied, in part, consistent with this Opinion and Order.

2. That the Exceptions of NRG Energy Inc., filed on September 10, 2024, to the Recommended Decision of Administrative Law Judges Eranda Vero and Arlene Ashton, issued on September 3, 2024, are granted, in part, and denied, in part, consistent with this Opinion and Order.

3. That the Recommended Decision of Administrative Law Judges Eranda Vero and Arlene Ashton, issued on September 3, 2024, is adopted as modified, consistent with this Opinion and Order.

4. That the Joint Petition for Approval of Non-Unanimous Settlement filed on July 10, 2024, at Docket No. P-2024-3046008, is approved, as modified, consistent with this Opinion and Order.

5. That the Joint Petition for Approval of Non-Unanimous Settlement filed on July 10, 2024, at Docket No. P-2024-3046008 is modified by striking Paragraph No. II.12.F.64.

6. That PECO Energy Company shall continue its Standard Offer Program in accordance with 52 Pa. Code § 54.10 and the *Investigation of Pennsylvania's Retail Electricity Market: Intermediate Work Plan*, Docket No. I-2011-2237952 (Order entered March 2, 2012), by providing that at the conclusion of the standard offer period, absent affirmative customer action to enter into a new contract with the EGS, enroll with a different EGS, or return to default service, the customer shall remain with the EGS on a month-to-month basis, and not be subject to any termination penalty or fee.

7. That, if any of the Parties wish to withdraw from the Joint Petition for Approval of Non-Unanimous Settlement based on the modification set forth in Ordering Paragraph No. 6 above, that Party shall e-file or hand deliver to the Secretary of the Commission and serve on all Parties to this proceeding an election to withdraw within five (5) business days from the date that this Opinion and Order is entered. If such an election to withdraw is filed, the Joint Petition for Approval of Non-Unanimous Settlement shall be disapproved, without further action by this Commission, and this

matter shall be returned to the Commission's Office of Administrative Law Judge for further action as deemed appropriate.

8. That, with the exception of the modification set forth at Ordering Paragraph No. 6 above, PECO Energy Company's currently-effective Standard Offer Program, including the associated cost recovery mechanisms approved in PECO Energy Company's prior default service proceedings, be permitted to continue, consistent with this Opinion and Order.

9. That PECO Energy Company's proposed Default Service Program VI, for the period June 1, 2025 through May 31, 2029, be approved, as modified by the Joint Petition for Approval of Non-Unanimous Settlement and this Opinion and Order; and the Parties be directed to comply with the terms of the Joint Petition for Approval of Non-Unanimous Settlement, as modified by this Opinion and Order, as though each term and condition stated therein had been the subject of an individual ordering paragraph.

10. That NERA Economic Consulting be approved as the independent third-party evaluator for PECO Energy Company's default service procurements and long-term solar procurement.

11. That PECO Energy Company be permitted to file a tariff supplement, as set forth in the Joint Petition for Approval of Non-Unanimous Settlement, to become effective upon at least one day's notice.

12. That PECO Energy Company's request for a waiver of the Commission's regulation at 52 Pa. Code § 54.187 be granted to the extent that is necessary to permit the Company to continue: (1) to procure generation for three procurement classes; (2) quarterly filing of hourly-priced default service rates; and (3) semi-annual reconciliation of the over/under collection component of the GSA for all

default service customers as set forth in PECO Energy Company's Default Service Program VI, as revised by the Joint Petition for Approval of Non-Unanimous Settlement, as modified, and as discussed herein.

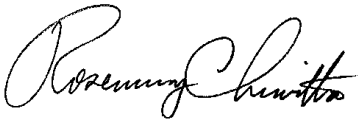
13. That the Retail Energy Supplier Association's request for a statewide investigation of default service messaging be denied.

14. That the Retail Energy Supplier Association's claims and recommendations regarding PECO Energy Company's new customer information system be dismissed.

15. That a copy of this Opinion and Order be served on the Director of the Commission's Office of Competitive Market Oversight.

16. That, to the extent no Party elects to withdraw from the Joint Petition for Approval of Non-Unanimous Settlement within five (5) business days, as set forth in Ordering Paragraph No. 7 above, and upon acceptance and approval by the Commission of the tariff supplement filed by PECO Energy Company consistent with this Opinion and Order, this proceeding shall be marked closed.

**BY THE COMMISSION,**



Rosemary Chiavetta
Secretary

(SEAL)

ORDER ADOPTED: November 7, 2024

ORDER ENTERED: November 7, 2024