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March 10, 2009

VIA OVERNIGHT MAIL

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

Re: Petition of PECO Energy Company for Expedited Approval of its Default Service Program and Rate Mitigation Plan – Docket No. P-2008-2062739

Dear Secretary McNulty:

Enclosed for filing, please find an original and three (3) copies of the Joint Petition for Settlement ("Joint Petition") of the above-referenced matter. Please note that the Joint Petition includes Statements in Support from all parties with the exception of Consolidated Edison Solutions, Inc., which has authorized the Joint Petitioners to represent that it does not oppose the Joint Petition.

Kindly return a time-stamped copy of this cover letter in the self-addressed envelope that is enclosed. Do not hesitate to contact me should you have any questions regarding this filing.

Very truly yours,

Anthony E. Gay

Anthony E. Gay

Enclosures

cc: Administrative Law Judge Marlane R. Chestnut (via Hand Delivery)
Certificate of Service (via electronic mail and First-Class Mail)

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PETITION OF PECO ENERGY COMPANY FOR EXPEDITED APPROVAL OF ITS DEFAULT SERVICE PROGRAM AND RATE MITIGATION PLAN	: : : :	**Docket No. P-2008-2062739**

CERTIFICATE OF SERVICE

I hereby certify that I have this day served copies of the Joint Petition for Settlement in the above-captioned matter in the manner as set forth below, in accordance with the requirements of 52 Pa. Code § 1.54:

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Counsel For PECO Energy Company

Dated: March 10, 2009

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PETITION OF PECO ENERGY	:	
COMPANY FOR EXPEDITED	:	
APPROVAL OF ITS DEFAULT	:	**DOCKET NO. P-2008-2062739**
SERVICE PROGRAM AND RATE	:	
MITIGATION PLAN	:	

JOINT PETITION FOR SETTLEMENT

March 10, 2009

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EXHIBITS AND STATEMENTS IN SUPPORT

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PETITION OF PECO ENERGY COMPANY FOR EXPEDITED APPROVAL OF ITS DEFAULT SERVICE PROGRAM AND RATE MITIGATION PLAN	:	**DOCKET NO. P-2008-2062739**

JOINT PETITION FOR SETTLEMENT

TO THE HONORABLE MARLANE R. CHESTNUT, ADMINISTRATIVE LAW JUDGE:

PECO Energy Company ("PECO" or the "Company"); the Office of Trial Staff ("OTS"); the Office of Consumer Advocate ("OCA"); the Office of Small Business Advocate ("OSBA"); the Philadelphia Area Industrial Energy Users Group ("PAIEUG"); Constellation New Energy, Inc. and Constellation Energy Commodities Group, Inc. ("Constellation"); the City of Philadelphia ("City of Philadelphia"); Direct Energy Services, Inc. ("Direct Energy"); Dominion Retail, Inc. ("Dominion Retail"); the Retail Energy Supply Association ("RESA"); the Tenant Union Representative Network; Action Alliance of Senior Citizens of Greater Philadelphia and Association of Community Organizations for Reform Now ("TURN *et al.*"); and Reliant Energy, Inc. ("Reliant") (collectively, the "Joint Petitioners"), by their respective counsel, submit this Joint Petition For Settlement ("Settlement") of all issues in the above-captioned proceeding and request that the Administrative Law Judge approve the Settlement without modification.[1] In support of this Settlement, the Joint Petitioners represent as follows:

[1] Consolidated Edison Solutions, Inc. ("ConEd Solutions"), which is also a party to this case, has authorized the Joint Petitioners to represent that it does not oppose the Settlement.

I. BACKGROUND

1. On September 10, 2008, PECO filed the above-captioned Petition requesting that the Pennsylvania Public Utility Commission (the "Commission") approve its proposed Default Service Program and Rate Mitigation Plan ("Original DSP Program").

2. The Original DSP Program set forth in PECO's Petition was designed to ensure that default service customers have access to a reliable supply of generation at "prevailing market prices," as required by the Electricity Generation Customer Choice and Competition Act, 66 Pa. C.S. §§ 2801 *et seq.* (the "Competition Act"), upon the transition from PECO's capped generation rates to market-priced generation, which will occur on January 1, 2011.

3. Accompanying its Petition, PECO filed the supporting data required by 52 Pa. Code § 53.52 as well as the prepared direct testimony and accompanying exhibits of Richard G. Webster, Jr. (PECO Statement No. 1); William J. Patterer (PECO Statement No. 2); Scott G. Fisher (PECO Statement No. 3); Chantale LaCasse, Ph.D. (PECO Statement No. 4); John J. McCawley, P.E. (PECO Statement No. 5); Alan B. Cohn (PECO Statement No. 6) and Manus J. McHugh (PECO Statement No. 7).

4. PECO notified its customers of the filing of the Petition by inserts included in customers' bills over a thirty-day period beginning on October 1, 2008. In addition, PECO published notices containing similar information in major newspapers in its electric service territory and issued a press release to all major media in its electric service area. The notices referred interested persons to PECO's Web site, where a copy of the entire filing was available for review. In addition, PECO served its Petition on the OTS, the OCA, the OSBA and the

persons and entities that had participated in recent proceedings before the Commission involving PECO's Electric Division.

5. On September 17, 2008, the Commission issued a notice that it had assigned this matter to Administrative Law Judge Marlane R. Chestnut (the "ALJ") for purposes of conducting hearings and issuing a Recommended Decision. In the same notice, the Commission scheduled a Prehearing Conference for October 17, 2008.

6. Petitions to Intervene in this proceeding were filed by PAIEUG, Constellation, City of Philadelphia, Direct Energy, Dominion Retail, RESA, TURN *et al.*, ConEd Solutions and Reliant. PAIEUG also filed an Answer to PECO's Petition. The OCA filed a Notice of Intervention and Answer. The OSBA filed a Notice of Intervention and Protest and an Answer with New Matter. PECO filed a timely Answer to OSBA's New Matter. The OTS filed a Notice of Appearance evidencing its participation in this proceeding.

7. Subsequently, on October 15, 2008, Governor Rendell signed Act 129 (2008 Pa. Legis. Serv. 819) into law which, among other provisions, amended the Competition Act to require electric distribution companies serving default service customers to use "competitive procurement processes" to obtain a "prudent mix" of contracts designed to ensure "adequate and reliable service" at the "least cost to customers over time."[2]

8. In accordance with the Commission's prior notice, a Prehearing Conference was held on October 17, 2008, at which a schedule was established for the submission of testimony and the conduct of hearings. Specifically, and consistent with Commission practice, a schedule was adopted whereby all case-in-chief, rebuttal and surrebuttal testimony would be submitted in

[2] 66 Pa. C.S. § 2807(e)(3.1)-(3.2) & (3.4).

writing in advance of hearings and oral rejoinder could be offered at hearings. Evidentiary hearings were scheduled for February 24 – 27, 2009, at which all testimony and exhibits would be placed in the record and all witnesses presented for cross-examination, if any, thereon. The ALJ issued Prehearing Order No. 1 establishing this schedule and also requiring PECO to file supplemental testimony to address Act 129 and any changes to the Original DSP Program.

9. On November 14, 2008, in accordance with Prehearing Order No. 1, PECO submitted the supplemental testimony and accompanying exhibits of Richard G. Webster (PECO Statement No. 1-S), William J. Patterer (PECO Statement No. 2-S), Scott G. Fisher (PECO Statement No. 3-S), Chantale LaCasse (PECO Statement No. 4-S), and John J. McCawley (PECO Statement No. 5-S). Additional information was supplied in response to 194 interrogatories. On January 9, 2009, Constellation, Direct Energy, Dominion Retail, OCA, OSBA, OTS, RESA and TURN *et al.* submitted a total of ten written statements and accompanying exhibits. On January 30, 2009, PECO, Constellation, OCA, OSBA, RESA and TURN *et al.* submitted 14 statements constituting their rebuttal testimony in this case. On February 18, 2009, Constellation, Direct Energy, Dominion Retail, OCA, OSBA, OTS, RESA and TURN *et al.* submitted nine surrebuttal statements.

10. After the submission of written testimony, the parties engaged in discussions to try to achieve a settlement of some or all of the issues in this case. As a result of those negotiations, the Joint Petitioners were able to agree to a settlement of all issues and a revised default service program consistent with PECO's Original DSP Program and supplemental testimony, as modified herein (the "Revised DSP Program") and notified the ALJ to that effect on February 23, 2009. The ALJ thereafter suspended the litigation schedule.

II. TERMS AND CONDITIONS OF SETTLEMENT

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

A. Procurement Plan

12. The procurement plan of PECO's Revised DSP Program shall have a term of twenty-nine months, beginning January 1, 2011 and ending May 31, 2013.

13. PECO's default service customers shall be divided into four classes for purposes of default service procurement: the Residential class, the Small Commercial class, the Medium Commercial class, and the Large Commercial and Industrial class.

14. The Residential class includes all residential customers currently receiving service under PECO rate schedules R, RH, RT, OP, and CAP Rates A through G.

15. The Small Commercial class includes small commercial and industrial customers served under rate schedules GS, PD and HT whose peak demand is less than 100 kW, as well as the following lighting rate schedules: AL, TL, POL, SLE, SLS, and SLP.

16. The Medium Commercial class includes customers from the following rate schedules whose peak demand is equal to or greater than 100 kW but less than or equal to 500 kW: GS, HT, PD.

17. The Large Commercial and Industrial class includes customers on rate schedules GS, HT, PD, and EP with peak demands greater than 500 kW.

(1) Residential Class

18. Twenty-five percent (25%) of the Residential class load will be served by PECO (the "PECO Share"). PECO will competitively acquire forward purchases of energy blocks to meet 80% of the expected seasonal energy requirements of the PECO Share. The terms and procurement schedule for contracts comprising the PECO Share are set forth on Exhibit B. PECO will balance the energy blocks and load of the PECO Share on an hourly basis through the hourly spot market energy in PJM as described in paragraph 20. PECO will purchase all other necessary products to serve the PECO Share, including without limitation ancillary services and capacity, in PJM-administered markets, as described in paragraph 21. Forward purchases of energy blocks will be as follows:

(i) 310 MW total quantity of 24x7 wholesale energy blocks delivered to PECO Zone in PJM will be procured for delivery beginning January 1, 2011 in the following amounts and terms:

(a) 50 MW, with a term length of five years;

(b) 100 MW, with a term length of two years;

(c) 160 MW with a term length of one year.

The energy block quantities procured for delivery beginning January 1, 2012 and January 1, 2013 shall be subject to the adjustment methodology described in Exhibit A.

(ii) 80 MW of "Winter" On-Peak 5x16 energy block quantity will be procured for delivery beginning January 1, 2011. This energy block quantity will be procured for January and February 2011. The energy block quantity procured for Winter 2011-12 (December 2011, January 2012, and February 2012) and Winter 2012-13 (December 2012, January 2013, and February 2013) will be subject to the adjustment methodology described in Exhibit A.

(iii) 130 MW of "Summer" On-Peak 5x16 energy block quantity will be procured for delivery beginning June 1,

2011. "Summer" begins June 1 of a year and ends August 31 of the same year. The energy block quantity procured for Summer 2012 will be subject to the adjustment methodology described in Exhibit A.

19. The form supply master agreement for block energy purchases described in paragraph 18 is attached as Appendix D-1 (the "Block Energy SMA").

20. Energy balancing service to serve the PECO Share (*i.e.*, purchases of hourly spot market energy when load exceeds the purchased block energy amounts and sales of purchased block energy amounts into the spot energy market when load is less than such amounts) will be obtained and conducted directly through the PJM spot energy market. Revenues from spot market sales and costs of spot market purchases will be reflected in default service rates and PECO will recover all related costs, net of sales revenues. All such costs will be reflected in the Price-to-Compare ("PTC"). PECO will provide revenue and cost information associated with energy balancing in each of its quarterly Generation Service Adjustment ("GSA") filings (described in Section II.D *infra*).

21. PECO will be responsible for all PJM bill charges and credits associated with the PECO Share and identified as Seller responsibility in the full requirements service Supply Master Agreement attached as Appendix C-1 ("Full Requirements SMA") and will recover these as procurement costs. All such costs will be reflected in the PTC. PECO will provide such cost information in each of its quarterly GSA filings (described in Section II.D *infra*).

22. PECO's costs associated with the payment and/or posting of collateral, if necessary, to comply with PJM credit policy for PJM bill activity associated with the PECO

Share will be considered procurement costs and recovered. All such costs will be included in the PTC. PECO will provide such cost information in each of its quarterly GSA filings.

23. Seventy-five percent (75%) of the Residential class load will be served through competitively procured contracts in the form of the Full Requirements SMA for load-following, full requirements default supply service. Contracts for forty-five percent (45%) of the Residential class load will have terms of two years, and contracts for the remaining thirty percent (30%) will have terms of one year. The two-year term contracts will be laddered so that all two-year contracts do not expire on the same date. Contract terms for the initial period shall include a 'stub' period from January 1, 2011 to May 31, 2011 to allow subsequent contracts to synchronize with the PJM planning year.

24. The procurement terms and schedule for these full requirements contracts to serve the Residential class are set forth on Exhibit B.

25. With respect to OCA, PECO will employ specific reporting mechanisms, with appropriate confidentiality provisions, regarding the results of the procurement processes for residential supply.

(2) Small Commercial Class

26. For its Small Commercial customers, PECO will enter into competitively procured contracts in the form of the Full Requirements SMA for load-following, full requirements default supply service. Approximately seventy percent (70%) of Small Commercial class customer load will be served through contracts with a term of one year, while approximately twenty percent (20%) of load will be served through contracts with a term of two

years. Contract terms for the initial period shall include a 'stub' period from January 1, 2011 to May 31, 2011 to allow subsequent contracts to synchronize with the PJM planning year.

27. Approximately ten percent (10%) of the Small Commercial class customer load will be served through competitively procured contracts in the form of the Full Requirements SMA for load-following, full requirements default supply service, with the price for energy in each contract set to be the hourly price of the PJM day-ahead wholesale "spot" energy market during the term of delivery.

28. The procurement terms and schedule for these contracts to serve the Small Commercial class are set forth on Exhibit B.

(3) Medium Commercial Class

29. For its Medium Commercial customers, PECO will enter into competitively procured contracts in the form of the Full Requirements SMA for load-following, full requirements default supply service. Approximately eighty-five (85%) of Medium Commercial class customer load will be served through contracts with a term of one year. Approximately fifteen percent (15%) of the Medium Commercial class customer load will be served through competitively procured contracts in the form of the Full Requirements SMA for load-following, full requirements default supply service, with the price for energy in each contract set to be the hourly price of the PJM day-ahead wholesale "spot" energy market during the term of delivery. Contract terms for the initial period shall include a 'stub' period from January 1, 2011 to May 31, 2011 to allow subsequent contracts to synchronize with the PJM planning year.

30. The procurement terms and schedule for these contracts to serve the Medium Commercial class are set forth in Exhibit B.

(4) Large Commercial & Industrial Class

31. For its Large Commercial and Industrial customers, PECO will enter into competitively procured contracts in the form of the Full Requirements SMA for load-following, full requirements default supply service, with the price for energy in each contract set to be the hourly price of the PJM day-ahead wholesale "spot" energy market during the term of delivery.

32. In addition, PECO will offer Large Commercial and Industrial customers a one-year fixed price optional service for the period January 1, 2011 – December 31, 2011. The procurement for the fixed price optional service is scheduled to take place on May 24, 2010. The procurement terms and schedule for the contracts to serve the fixed price optional service are set forth on Exhibit B. Any customer remaining on the fixed price optional service as of December 31, 2011 will be transferred to hourly priced default service.

33. The Joint Petitioners agree that customers who select the fixed-price product will be able to switch off of the fixed-price product upon notice to PECO under electric choice switching rules, as set forth in PECO's tariff. Such customers will not be able to return to the fixed-price product after switching but will only be allowed to return to hourly-priced default service.

B. Default Service Implementation Plan, Contingency Plan, And Independent Monitor

34. Attached as Exhibit C to this Settlement are a form Requests for Proposals (including the Full Requirements SMA, bidder forms, and credit documents) and an RFP Protocol (Exhibit C-1) for implementation of PECO's procurement of full requirements service.

35. Attached as Exhibit D to this Settlement are a form Requests for Proposals (including the Block Energy Supply SMA, bidder forms, and credit documents) and an RFP Protocol (Exhibit D-1) for implementation of PECO's procurement of block energy to serve the PECO Share.

36. The documents attached as Exhibits C, C-1, D, and D-1 are versions of the documents originally attached to the direct and supplemental testimony of Dr. Chantale LaCasse (PECO St. Nos. 4 and 4-S), as revised to reflect the procurement plan and products set forth in this Settlement, and have been reviewed and found acceptable by the Joint Petitioners.

37. In order to permit the participation of PECO's affiliate, Exelon Generation, in PECO's competitive procurement (as allowed by Section 54.186(b)(5) of the Commission's default service regulations, *see* 52 Pa. Code § 54.186(b)(5)), the Joint Petitioners also respectfully request the Commission to approve the Full Requirements SMA and the Block Energy SMA as affiliated interest agreements under 66 Pa. C.S. § 2102.

38. A single bidder shall supply no more than sixty-five percent (65%) of the load of each procurement class (the "load cap"). The load cap shall be applied separately to full requirements service and block energy supply for the Residential class.

39. The Joint Petitioners agree that in the event of a supplier default, PECO will initially rely on filling that supplier's portion of PECO's default service load directly through the PJM-administered markets for energy, capacity, and ancillary services. If the default occurs within a reasonable time before a scheduled procurement, the load served by the defaulting supplier will be incorporated into that next procurement, as set forth in the form Requests for Proposals for full requirements service and block energy. Otherwise, PECO will file a plan with

the Commission with alternative procurement options and a request for approval on an expedited basis.

40. PECO agrees to establish a process to publish timely information about its default service procurements and projected default service rates. The details of this process, and procedures to protect the confidentiality of individual wholesale supplier bids and the integrity of the competitive bidding process are set forth in Exhibit G. Parties agree that the intent of such a process is to provide public information about the resulting weighted average bid prices of each default service procurement event and about projected default service rates (and GSA reconciliations) in advance of each quarterly price period.

41. The Joint Petitioners agree to the appointment of NERA Economic Consulting, Inc. as independent evaluator for PECO procurements under the Revised DSP Program.

C. Alternative Energy Portfolio Standards Compliance

42. In order to comply with Pennsylvania's Alternative Energy Portfolio Standards Act, 73 P.S. § 1648.1 *et seq*. ("AEPS"), (a) PECO will apply alternative energy credits ("AECs") obtained through its existing and future Commission-approved separate AEC procurements towards its compliance obligations; and (b) under the Full Requirements SMA, full requirements service suppliers will provide PECO with additional AECs required for the portions of PECO's default service load that they serve.

43. With respect to the PECO Share, PECO will satisfy the associated AEPS obligations by applying AECs from its Residential customers' share of AECs from PECO's separate AEC procurements and competitively procuring any additional AECs required to meet the PECO Share's AEPS requirements. PECO will submit a separate petition to the Commission

for approval of its procedures for such separate AEC procurements. Such separate procedures will also address purchases and sales of AECs should a full requirements service supplier fail to deliver AECs or should a situation arise in the future whereby PECO has excess AEC inventory and is unable to apply the inventory to default service obligations before the inventory would expire. All costs associated with AEPS compliance will be reflected in the PTC. PECO will provide such cost information in each of its quarterly GSA filings for those AECs that are purchased directly by PECO.

44. PECO will determine the shares of banked AECs for the Residential, Small Commercial, Medium Commercial, and Large Commercial and Industrial customers from PECO's separate AEC procurements based upon estimated default service retail sales by each procurement class. The AEPS obligations associated with the retail sales of electricity to Small and Medium Commercial customers and Large Commercial and Industrial customers will be satisfied through the allocation of AECs by procurement class to the AEC obligations of suppliers to those classes under PECO's full requirements service supply master agreements, with additional AECs required to be provided by suppliers as a component of full requirements service.

45. PECO will estimate AEPS requirements associated with the PECO Share and will plan to supply these requirements from the Residential customers' share of PECO's separately procured AEC inventory. If the AEPS requirements associated with the PECO Share are satisfied and additional AECs from the Residential customers' share remain available, those AECs will be applied to the AEPS obligations associated with the Residential customer load to be served by full requirements suppliers.

D. Tariff Changes, Rate Design And Cost Recovery

46. PECO will be permitted to file the electric service tariff set forth in Exhibit E to this Joint Petition to become effective as of January 1, 2011. A version of Exhibit E that has been redlined to show the changes it makes to PECO's existing tariff is attached as Exhibit E-1.

47. Each rate schedule in PECO's electric service tariff will refer to, and incorporate by reference, the GSA to recover PECO's generation supply costs and administrative costs, as delineated in Exhibit F. The changes under the GSA will be separately stated by rate schedule and by procurement class, as shown on page 31 of Exhibit E. Charges under the GSA will be adjusted and reconciled quarterly for customers in the Residential, Small Commercial, and Medium Commercial procurement classes and monthly for customers in the Large Commercial and Industrial procurement class. The timelines and methodology for adjustment and reconciliation are set forth in detail in Exhibit E at pages 31-32.

48. In accordance with the Commission's regulations (52 Pa. Code § 54.187(c)) and policy statement (52 Pa. Code § 69.1810) on default service, PECO will phase out over three years the demand based declining energy blocks that currently exist in Rate Schedules GS (General Service), PD (Primary Distribution) and HT (High Tension). PECO proposed a method for calculating the annual changes to implement the three-year phase-out. However, as part of this Settlement, PECO agrees to accept the alternative method for implementing a three-year phase-out proposed by the OSBA. The OSBA's alternative provides that no existing energy block that would be at or above the market rate on January 1, 2011 will be increased above the market rate as part of the phase-out and no energy block that is below market price will be increased above market price as part of the phase-out.

49. PECO also proposed to phase out the energy price differentials reflected in Rate Schedules RH (Residential Space Heating) and OP (Residential Off Peak) over three years. In response to the OCA's concerns that customers served under these rates might experience large increases notwithstanding the three-year phase out, PECO agrees to meet with interested parties to evaluate whether to extend the phase-out period for Rates RH and OP if the average total bill rate increase (*i.e.*, the average of Rates RH and Rate OP in conjunction with Rate R) for calendar year 2011, as compared to the total bill under rates charged in December 2010, exceeds 25%.

50. PECO will calculate and offer a PTC by rate schedule and procurement class. The costs that will be included in the PTC are set forth in Exhibit F (subject to any unbundling determinations that may result from the Electric Distribution Base Rate Case or stand-alone POR proceeding referenced in paragraph 66).[3] Costs that PECO will recover but are not included in the PTC and the mechanisms for recovering those costs are also described in Exhibit F.

51. Until the phase-out of demand-based declining energy blocks for Rates GS, PD, and HT is completed and all customers are charged the same PTC by procurement class, individual Small and Medium Commercial customers will experience energy prices that vary from the average PTC for their class based on each customer's load factor. Accordingly, PECO will include customer-specific PTCs on the bills of Small and Medium Commercial customers served under Rates GS, PD and HT.

52. Exhibit E reflects technical and conforming changes in definitions, rules and regulations made to accommodate the termination of Competitive Transition Charges ("CTCs")

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[3] The inclusion of costs on Exhibit F does not preclude any party from raising additional costs that should be unbundled in the Electric Distribution Base Rate Case or stand-alone POR proceeding referenced in paragraph 66.

and Intangible Transition Charges ("ITCs") and the expiration of the caps on PECO's generation rates.

53. Exhibit E reflects the elimination of rate provisions in PECO's existing electric service tariff that relate to the imposition of CTCs and ITCs, which will expire on January 1, 2011.

54. Exhibit E reflects the elimination of the following Riders, which cannot be applied when PECO no longer offers capped generation rates and/or no longer charges CTCs and ITCs:

- **Riders Offering Interruptible Service.** These consist of the Curtailment HT Rider, the Large Interruptible Load Rider ("LILR"), Interruptible Rider-1 and Interruptible Rider-2. (New interruptible rate provisions, discussed hereafter, will replace these eliminated Riders.)
- **Riders Offering Economic Development Incentives.** These consist of the Economic Efficiency Rider, the Incremental Process Rider, the Employment and Economic Recovery Rider and the Keystone Opportunity Zone Rider. (New economic development initiatives, discussed hereafter, will replace these eliminated Riders.)
- **Riders For Which Pricing Is Based On PECO Providing Fixed Generation Rates.** These consist of the Capacity Reservation Rider, the Off-Peak Rider, the Seasonal Capacity Rider and the Auxiliary Service Rider.

55. For Rate Schedules R, RT (Residential Time of Use), RH and OP, Exhibit E eliminates the seasonal differential in energy and capacity pricing and the Monthly Pricing Option. For Rate Schedules HT and EP (Electric Propulsion), Exhibit E eliminates the time-of-use adjustments, which are not applicable when default service is provided at market prices.

56. In Exhibit E, the Night Service Riders for Rates GS, PD and HT, the Cooling Thermal Storage Rider, the Casualty Rider, the Construction Rider and the Emergency Energy Conservation Rider are being modified to reflect changes needed because of the expiration of capped generation rates and PECO's offering of a single PTC. The provisions of the Riders affecting only distribution charges will remain in place.

57. Exhibit E will establish Rates IS-M (Interruptible Service – Mandatory) and IS-V (Interruptible Service – Voluntary), which differ based on whether a customer's interruption of usage, when asked to do so, is mandatory or voluntary.

58. The principal elements of Rate IS-M are as follows:

- Participants are required to curtail a minimum of 100 kW of load when called upon to do so. A customer can either establish a firm demand level to which it must reduce load if called upon to do so or establish a guaranteed load-drop amount.

- Penalties for failing to interrupt will be those assessed by PJM under the rules of its demand response program.

- Interruptions under the mandatory program will be called by PJM and will be limited to ten events per year. Interruptions will be called when PJM determines

60. Exhibit E will establish Rate EDR (Economic Development Rider), which has the following principal elements:

- Rate EDR has an employment and load growth component and a business attraction and retention component.
- The employment and load growth component has three sections defining applicability – one for non-manufacturing customers, one for manufacturing customers, and one for Brownfield Redevelopment. A non-manufacturing customer must increase load by at least 1 MW, increase employment by ten jobs per MW and attain Leadership in Energy and Environmental Design ("LEED") certification at an existing location. A manufacturing customer must show an increase in employment of at least ten jobs and an increase in usage of 100 kW. Manufacturing and non-manufacturing customers that add at least 100 kW of load at a certified Brownfield site will qualify for the rate under its Brownfield development provisions.
- New customers that qualify for Rate EDR under the employment and load growth component will receive a discount of 15% on their variable distribution charges. The discount will apply to incremental usage for existing customers.
- For the business attraction and retention component, a customer must document a viable competitive alternative to PECO's electric service and demonstrate that it will retain or attract at least 1 MW of load and 10 jobs in order to qualify.

- Customers that qualify under the business attraction and retention component can receive up to a 50% reduction from PECO's otherwise applicable variable distribution charges.
- The discounts under Rate EDR will last for a period of five years.
- Rate EDR is available to shopping and non-shopping customers.
- Recovery of the discounts under Rate EDR will be sought in PECO's next distribution rate case.

61. Exhibit E establishes a Market Rate Transition Deferral Program ("Deferral Program"). The Deferral Program is only available for Residential customers and non-residential customers in the Small Commercial class with peak demand up to 25 kW and only if the class increase is over 25% on a total bill basis. The Deferral Program will begin when the generation rate cap period expires on January 1, 2011. Under the Deferral Program, customers will receive a credit on their bills in the first year (2011) in order to mitigate the initial financial impact of any rate increase. The credit PECO will apply to a customer's bill represents the deferral of a portion of the increase, which the customer will ultimately pay to PECO in the future. The second year of the plan will have rates at the full market price. Once the amount billed to a customer reflects the price of generation supply (*i.e.*, a credit is no longer applied), a fixed monthly surcharge will be applied to the customer's bill to recover the deferred amount plus interest on the deferral at the statutory rate of 6% compounded monthly. The recovery period for deferred amounts will be two years.

62. The principal elements of the Deferral Program consist of the following:

- Actual credits and surcharges will be calculated based upon the actual prices for electricity when those prices become available.
- The deferrals will be tracked on a customer-specific basis. No reconciliation is required.
- The enrollment period will begin once PECO has all of its energy supply contracts in place for 2011. PECO will promote enrollment until December 31, 2010.
- If a customer drops out of the program or moves out of PECO's service territory, any deferred balance, including accrued carrying charges owed to PECO, will become payable to the Company.
- The Deferral Program is only available for Residential customers and non-residential customers in the Small Commercial class with peak demand of up to 25 kW and only if the class increase is over 25% on a total bill basis. Customers cannot enroll in the Deferral Program if they are already participating in the Market Rate Transition Phase-In Program. Customers that are participating in PECO's Customer Assistance Program ("CAP") are not eligible for the Deferral Program.
- Credits and surcharges under the Deferral Program will be competitively neutral and non-bypassable. The Deferral Program is available to customers purchasing their energy supply from an electric generation supplier, and enrollment in the Deferral Program will not affect a customer's right to obtain service from an EGS. PECO's consumer education materials and customer outreach efforts will inform

customers that (a) customers who "shop" for generation service with an EGS and are otherwise eligible for the Deferral Program may participate; (b) an election by an otherwise eligible customer to participate in the Deferral Program will not affect the customer's future ability to obtain service from an EGS; and (c) participation in the Deferral Program will not affect the customer's PTC.

63. The costs of the Deferral Program will be recovered in a reconcilable, non-by-passable charge under Section 1307 of the Public Utility Code. All of the costs of the Deferral Program will be allocated to eligible procurement classes based upon the number of eligible customers in the classes with the exception of incremental costs, if any, incurred to operate the program after it has been implemented, which will be assigned to the Residential and Small Commercial procurement classes based upon participation levels.

64. PECO's current Universal Service Fund Charge ("USFC") is designed to collect $383 per CAP customer per year. Because this amount is not sufficient to recover the costs PECO will incur by reason of modifications to its CAP program to become effective on January 1, 2011, as discussed *infra*, there will be changes in the way PECO recovers electric CAP program costs. Under the tariff set forth in Exhibit E, a new post-2010 provision has been added to allow for recovery of additional costs that PECO will incur under the CAP program enhancements discussed *infra*.

65. PECO will file a revised purchase of receivables ("POR") program as part of its next general electric distribution base rate case under Section 1308(d) of the Public Utility Code ("Electric Distribution Base Rate Case"). If PECO does not file an Electric Distribution Base Rate Case proposing new base rates to become effective, after full suspension, on or before

January 1, 2011, then it will file a stand-alone POR program no later than July 1, 2010 and will request that the Commission decide that case in sufficient time to implement the revised POR program on January 1, 2011.

66. In advance of either its stand-alone POR program filing or an Electric Distribution Base Rate Case, as applicable, PECO will hold at least three meetings with interested parties to discuss the details of the POR program. As part of this collaborative process, the Joint Petitioners agree that interested parties are to consider implementing a POR program as an alternative to "unbundling" uncollectible accounts and collection-related expenses from distribution rates. The revised POR program at a minimum will include the following elements:

- PECO will have the ability to terminate service to a customer for the customer's non-payment of supplier charges in the same manner and to the same extent that PECO could terminate service to such a customer for non-payment of EDC charges, subject to appropriate consumer protections to be developed in consultation with the parties to this Settlement.

- PECO will make its purchase of receivables "non-recourse" subject to resolution of issues in the preceding bullet.

- The purchase of receivables will be available only for EGSs that employ PECO's consolidated EDC billing option, and, if an EGS does employ the consolidated EDC billing option, then it will be mandatory for the EGS to participate in the POR program for EDC consolidated-billed customers.

- The 90-day reversion to separate billing provision under the current POR program will be eliminated in the filed POR program.

- PECO's payments to suppliers will continue to be made on the basis of the current POR program's payment schedule and format.

- PECO will have the authority and discretion to discount POR payments to suppliers based upon historical uncollectible rates on a customer class basis subject to Commission approval. However, if the amount by which PECO's price for the receivables is discounted for uncollectible accounts expense is less than the actual level of uncollectible account expense that PECO experiences for the purchased receivables, PECO will not seek to recover from its customers that additional cost.

- The discount PECO will apply to receivables purchased under the POR program will reflect only incremental uncollectible expense and other incremental POR-related expenses that are not included in distribution rates. Specifically, PECO will be permitted to recover POR program implementation costs not included in distribution rates (exclusive of the uncollectibles portion of the discount). The Company will provide an estimate of these costs in its Electric Distribution Base Rate Case or stand-alone POR filing.

- By reason of PECO's agreeing to file a revised POR program on the basis set forth above, the other Joint Petitioners agree not to petition the Commission for the unbundling of PECO's distribution rates until such time as PECO files an Electric Distribution Base Rate Case or a stand-alone POR filing. This provision does not bar any Joint Petitioner from participating in a generic Commission rulemaking concerning the unbundling of distribution rates or the purchase of receivables.

E. Universal Service

67. Beginning with bills for the January 2011 billing period, PECO will increase the discount levels that it offers to CAP customers so that approximately ninety percent (90%) of each tier of CAP customers will meet the Commission's affordability targets set forth in the Commission's CAP Policy Statement, 52 Pa. Code § 69.265(2)(i), provided, however: (i) for Tiers D, D-1, E, and E-1, PECO will be permitted to offer lower discounts, such that not less than 88% of the customers in such tiers will meet the aforementioned affordability targets; and (ii) for Tiers A and B, PECO will be permitted to offer higher discounts, such that up to 100% of the customers in such tiers will meet the aforementioned affordability targets.

68. Beginning with bills for the January 2011 billing period, PECO will adopt the following six-tier CAP rate design for its electric utility service:

	Income eligibility, as percentage of Federal Poverty level
CAP Rate A	25% or below with extenuating circumstances
CAP Rate B	25% or below
CAP Rate C	At or greater than 26% but less than 51%
CAP Rate D	At or greater than 51% but less than 75%
CAP Rate D1	At or greater than 76% up to and including 100%
CAP Rate E	At or greater than 101% up to and including 125%
CAP Rate E1	From 126% up to and including 150%

The rate discounts to be offered, beginning January 1, 2011, for each tier will be determined based on an updated analysis to be prepared by the Applied Public Policy Research Institute for Study and Evaluation ("APPRISE") and the income levels and projected rates at that time.

69. In determining the discounts to be applied to customer bills, PECO will implement the maximum CAP benefit cost control (nominally, the $700 maximum benefit, subject to adjustment as provided in paragraph 73) on a system-wide basis rather than on an individual basis, *i.e.*, the maximum benefit will be an average across all CAP customers and not a $700 limit on an individual customer basis. The discount levels will be adjusted annually as the commodity price for electric generation service changes as described in paragraph 47. Additionally, the 650 kWh per month individual customer maximum usage to which discounts will be applied will remain in place with the exception that in the months of July through September the discount shall be on the first 750 kWhs for CAP Rates B and C.

70. CAP customers will be required to remain on default service.

71. If, subsequent to approval of this Settlement, the Commission changes the percentage of income affordability guidelines for CAP customers, PECO will utilize the new affordability guidelines and adjust the CAP Rate discount accordingly for each CAP Rate tier, insofar as the new discounts can be applied while meeting the regulatory cost control features set forth at 52 Pa. Code § 69.265(3), with those requirements applied as set forth in paragraph 69, and to the extent that PECO is allowed to obtain full and current cost recovery for any such additional discounts.

72. Beginning in September 2009, PECO will implement a usage tracking program for its CAP customers in which PECO will monitor, for the first two years of a customer's initial participation in CAP, such new CAP participants' consumption to determine whether CAP customers are maintaining annual usage at or below 125% of their historical average usage,

adjusted for weather, and will report its findings by June 30 of each year to the OCA, the OTS, the Law Bureau of the Commission, and TURN *et al.*

73. If, subsequent to approval of this Settlement, the Commission issues guidance increasing the nominal $700 maximum CAP benefit, PECO will adjust the nominal $700 maximum benefit and will utilize the new maximum benefit in its design parameters, subject to full and current cost recovery.

74. Beginning in 2010, PECO will generate a list by March 31 of each year identifying those CAP customers that individually received benefits in the prior calendar year greater than the then-applicable maximum CAP benefit amount, as set forth at 52 Pa. Code § 69.265(3)(v), as that amount may be revised by the Commission from time-to-time. The list will include the customer's usage, discount level, and CAP tier. Customers who appear on this list will be given priority in PECO's LIURP program and in PECO's expenditure of the non-LIURP low-income weatherization funds described below.

75. Effective January 1, 2010, PECO will increase its annual spend on electric low-income weatherization and conservation programs, beyond its current expenditure of $5.6 million on its LIURP program, as follows:

2010 -- $1.0 million additional spend

2011 -- $1.5 million additional spend

2012 -- $2.0 million additional spend

2013 -- $2.5 million additional spend

This incremental spend will be recovered via the USFC adjustment beginning January 1, 2010, as set forth on Exhibit H. To the extent included in PECO's approved energy efficiency and conservation plan under Act 129, PECO will be given credit for any associated usage reduction in meeting its requirements under 66 Pa. C.S. § 2806.1(c).

F. Retail Market Issues

76. PECO agrees to update its customer Release of Information database through a one-time bill insert to customers in the first half of 2010 to ascertain current consumer information release preferences as part of its customer education plan approved by the Commission[4] and in accordance with 52 Pa. Code § 54.8.

77. PECO agrees, in accordance with the Commission's order approving its consumer education plan, to work with the OCA and marketers in a collaborative fashion to develop customer education materials to inform customers about competition utilizing its Web site, bill stuffers and newsletters to provide EGS contact information. As part of this effort, PECO further agrees to include supplier contact information (Name, phone number, Web site) in its Energy@Work and Energy@Home newsletters three times in 2010.

78. PECO will appoint a retail choice ombudsman with responsibility for responding to questions from competitive retail suppliers, monitoring competitive market complaints, and facilitating informal dispute resolution.

79. PECO agrees to lead three separate collaboratives – one addressing residential customer Market Share Threshold ("MST") proposals; one addressing an alternative customer aggregation proposal; and one addressing a direct mail referral program for residential and small

[4] *See PECO Energy Company Consumer Education Plan for 2008-2012 Submitted in Compliance with May 10, 2007 Final Order at Docket No. M*-00061957, Docket No. M-2008-2032274 (Order entered August 7, 2008).

commercial customers (25 kW and below) prior to filing its next DSP case. PECO will consider outputs from the collaboratives as possible inputs to the plan design for its next DSP case.

G. Request For Waiver

80. 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 are given some discretion to depart from these specific ranges. The Joint Petitioners respectfully request that the Commission grant PECO a waiver of § 54.187 in order to separate its commercial customers into a Small Commercial class for customers with demands less than 100 kW and a Medium Commercial class for customers with demands between 100 kW and 500 kW.

III. THE SETTLEMENT IS IN THE PUBLIC INTEREST

81. PECO, the OTS, the OCA, the OSBA, RESA, TURN, *et al.*, Dominion Retail, Reliant Energy, PAIEUG, Constellation, City of Philadelphia and Direct Energy have each prepared, and attached to this Joint Petition, Statements in Support identified as Statements A through K respectively, setting forth the bases on which they believe the Settlement is in the public interest.

82. The Joint Petitioners submit that the Settlement is in the public interest for the following additional reasons:

- ***Substantial Litigation And Associated Costs Will Be Avoided.*** The Settlement amicably and expeditiously resolves a number of important and contentious issues. The administrative burden and costs to litigate these matters to conclusion would be substantial.

- ***The Settlement Is Consistent With Commission Policies Promoting Negotiated Settlements.*** The Joint Petitioners arrived at the Settlement terms after conducting extensive discovery and engaging in in-depth discussions over several weeks. The Settlement terms and conditions constitute a carefully crafted package representing reasonable negotiated compromises on the issues addressed herein. Thus, the Settlement is consistent with the Commission's rules and practices encouraging negotiated settlements (see 52 Pa. Code §§ 5.231, 69.391, 69.401), and is supported by a substantial record.

- ***The Settlement Includes A Voluntary Market Rate Deferral Program.*** The Settlement will establish a voluntary, and competitively neutral, Market Rate Deferral Program to assist eligible customers to mitigate the effect of increases that may occur when the generation rate cap period ends. The Deferral Program is only available for Residential customers and non-residential customers in the Small Commercial class with peak demand up to 25 kW and only if the class increase is over 25% on a total bill basis. The Deferral Program is consistent with the Commission's Policy Statement on default service, which encourages EDCs to establish such mitigation programs.

- ***Additional Benefits for Low-Income Customers.*** The Settlement results in increased and efficient delivery of additional benefits to low-income customers, while being very cognizant of the Commission's cost-control features and incorporating new measures to encourage conservation.

- ***The Settlement Provides For A Reasonable Phase-Out Of Demand-Based Declining Energy Blocks.*** The Commission's regulations on default service require declining energy blocks to be eliminated. However, an immediate elimination of declining blocks could impose a significant increase on some customers apart from increases in the price of generation service. The Settlement provides for a reasonable phase-out of the demand-based declining blocks in Rates GS, PD and HT and the energy price differentials in Rates RH and OP and, as to the latter, provides a framework for additional mitigation under the circumstances specified in the Settlement.

- ***The Settlement Establishes New Interruptible and Economic Development Rates.*** Because of the expiration of generation rate caps and the transition to market-based pricing, PECO's existing interruptible and economic development rates cannot remain in place after December 31, 2010. The Settlement establishes new interruptible and economic development rates that can be instituted on January 1, 2011.

IV. ADDITIONAL TERMS AND CONDITIONS

83. The parties agree that this Settlement represents the default service procurement plan for all PECO customer classes for the plan term beginning January 1, 2011 and ending May 31, 2013 (including contracts procured pursuant to the plan during such term and extending beyond May 31, 2013). PECO shall be entitled to recover all costs incurred by PECO under the procurement plan as set forth in this Settlement, and the parties agree that they shall neither challenge nor seek disallowance of such costs (including pursuant to 66 Pa. C.S. §§ 2807(e)(3.8) & 2807(e)(3.9)), provided that PECO's procurements are made in accordance with the approved

plan and there has been no fraud, collusion or market manipulation with regard to the contracts entered into under the plan.

84. This Settlement is proposed by the Joint Petitioners to settle the instant case and is made without any admission against, or prejudice to, any position which any Joint Petitioner might adopt during subsequent litigation of this case or any other case. It is understood, however, that paragraph 83 shall be binding upon the Joint Petitioners should the Settlement be approved.

85. This Settlement is conditioned upon the Commission's approval of the terms and conditions contained herein without modification. If the Commission should disapprove the Settlement or modify the terms and conditions herein, this Settlement may be withdrawn upon written notice to the Commission and all active parties within five business days following entry of the Commission's Order by any of the Joint Petitioners and, in such event, shall be of no force and effect. In the event that the Commission disapproves the Settlement or the Company or any other Joint Petitioner elects to withdraw as provided above, the Joint Petitioners reserve their respective rights to fully litigate this case, including but not limited to presentation of witnesses, cross-examination and legal argument through submission of Briefs, Exceptions and Replies to Exceptions.

86. If the Administrative Law Judge, in her Recommended Decision, recommends that the Commission adopt the Settlement as herein proposed without modification, the Joint Petitioners agree to waive the filing of Exceptions. However, the Joint Petitioners do not waive their rights to file Exceptions with respect to any modifications to the terms and conditions of this Settlement, or any additional matters proposed by the Administrative Law Judge in her

Recommended Decision. The Joint Petitioners also reserve the right to file Replies to any Exceptions that may be filed.

V. REQUEST FOR EXPEDITIOUS CONSIDERATION

87. In order for customers to obtain the maximum benefit from procurement of default energy supply at current market prices, the Joint Petitioners respectfully request expeditious consideration of the Joint Petition and, specifically, request that the Settlement and the Recommended Decision issued with respect to this Joint Petition be placed on the Commission's agenda for consideration at its public meeting to be held on April 16, 2009.

WHEREFORE, the Joint Petitioners, by their respective counsel, respectfully request as follows:

1. That Administrative Law Judge Chestnut and the Commission approve the Settlement and PECO's Revised DSP Program as set forth herein, including all terms and conditions thereof;

2. That the Commission proceeding at Docket No. P-2008-2062739 be marked closed; and

3. That the Commission enter an Order evidencing its approval of the Settlement, terminating the proceeding, and authorizing PECO to file the tariff supplements set forth in Exhibit E and Exhibit H to become effective in accordance with their terms.

Respectfully submitted,

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