**PENNSYLVANIA**

**PUBLIC UTILITY COMMISSION**

**Harrisburg, PA 17105-3265**

Commissioners Present:

Robert F. Powelson, Chairman

John F. Coleman, Jr., Vice Chairman

Wayne E. Gardner

James H. Cawley

Pamela A. Witmer

Petition of PECO Energy Company for P-2012-2283641

Approval of its Default Service Program

**OPINION AND ORDER**

**BY THE COMMISSION:**

Before the Pennsylvania Public Utility (Commission) for consideration and disposition are: (1) the Petition for Clarification and Reconsideration (PECO Petition) filed by PECO Energy Company (PECO or the Company) on October 31, 2012; and (2) the Joint Petition for Clarification (CAUSE/TURN Petition) filed by the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA), the Tenants Union Representative Network (TURN), and the Action Alliance of Senior Citizens of Greater Philadelphia (collectively, CAUSE/TURN) on October 29, 2012. The PECO Petition and the CAUSE/TURN Petition seek reconsideration and/or clarification of the Commission’s Opinion and Order entered on October 12, 2012 (*October 2012 Order*), in the above-captioned proceeding.

Also before the Commission are the Answers filed on November 13, 2012, by the following Parties: the Office of Consumer Advocate (OCA) (OCA Answer), the Retail Energy Supply Association (RESA) (RESA Answer), FirstEnergy Solutions Corp. (FES) (FES Answer), and Dominion Retail, Inc. d/b/a Dominion Energy Solutions (DES) and Interstate Gas Supply, Inc. d/b/a IGS Energy (IGS) (collectively, EGS Parties) (EGS Parties Answer).

**I. Procedural History**

On January 13, 2012, PECO filed a Petition (Petition)requesting that the Commission approve its Default Service Plan (DSP II) for the period from June 1, 2013 to May 31, 2015, and find that its DSP II satisfies the criteria set forth at Section 2807(e)(3.7) of the Public Utility Code (Code), 66 Pa. C.S. § 2807(e)(3.7). The Commission has a statutory requirement under Section 2807(e)(3.6) of the Code, 66 Pa. C.S. § 2807(e)(3.6), to issue a final decision regarding this proposed default service plan within nine months of the date that the plan was filed. PECO stated that its DSP II is designed to provide its default service customers access to an adequate, reliable generation supply at the least cost over time and to enable the Company to recover its costs of furnishing that service in accordance with the Commission’s Regulations governing default service (52 Pa. Code §§ 54.181 – 54.189) and the Commission’s Policy Statement on Default Service and Retail Electric Markets (52 Pa. Code §§ 69.1801- 69.1817). In addition, PECO contended that its DSP II contains certain competitive market enhancements in accordance with the Commission’s recent Final Order in the *Investigation of Pennsylvania’s Retail Electricity Market: Intermediate Work Plan*, Docket No. I-2011-2237952 (Order entered March 2, 2012) (*IWPF Order*). As its name implies, this is PECO’s second proposed program for default service under Pennsylvania’s Electricity Generation Customer Choice and Competition Act, Act 138 of 1996, as amended by Act 129 of 2008 (Act 129), codified at 66 Pa. C.S. §§ 2801-2812 (Competition Act).

An evidentiary hearing was held in Harrisburg on May 22, 2012. At the hearing, the testimony and related exhibits offered by the Parties to this proceeding were received into evidence, and two witnesses were cross-examined. A hearing transcript of 134 pages was produced in this proceeding and filed on May 30, 2012. Subsequent to the evidentiary hearing, Briefs and Reply Briefs were timely filed by the Parties, and the record closed on July 9, 2012.

Administrative Law Judge (ALJ) Dennis J. Buckley issued his Recommended Decision on August 29, 2012. The ALJ recommended that the Petition be approved, subject to certain recommended modifications. Exceptions were filed on or about September 12, 2012, by: PECO; the OCA; the Office of Small Business Advocate (OSBA); RESA; PPL Energy Plus, LLC (PPL); FES; the EGS Parties; Green Mountain Energy Company (Green Mountain or GMEC); and the Joint Suppliers Group[[1]](#footnote-1) (Joint Suppliers). Replies to Exceptions were filed on or about September 17, 2012, by PECO, the OCA, the OSBA, the Commission’s Bureau of Investigation and Enforcement (I&E), RESA, PPL, FES, the EGS Parties, Green Mountain, the Philadelphia Area Industrial Energy Users Group (PAIEUG), and CAUSE-PA. On September 13, 2012, the OSBA filed two Motions to Strike, seeking to strike portions of Exceptions. The Joint Suppliers and RESA filed Answers to the OSBA’s Motions.

The *October 2012 Order* denied the OSBA’s Motions to Strike and adopted the Recommended Decision, as modified by that Order. The Petitions for Reconsideration and/or Clarification, and their Answers thereto, were filed as noted above.

On November 9, 2012, the Commission issued a Secretarial Letter which stated, in pertinent part:

In its Petition, PECO requested that the Commission reconsider the thirty-day timeline established by the [*October 12 Order*] for development of a revised proposal regarding the requirements in PECO’s EGS Applications and Form Agreements for EGSs participating in PECO’s Opt-In and Standard Offer Program. PECO explained that the EGS Applications and Form Agreements include provisions that are directly related to cost recovery of Retail Market Enhancement Program design issues that are the subject of stakeholder discussions for which the Commission established a longer sixty-day period in the [*October 12 Order*].

As the Commission considers these Petitions, it has become clear that one or more of the deadlines set forth in the [*October 12 Order*] will pass during our consideration of the Petitions. Accordingly, we wish to make clear that our consideration of the issues presented in these Petitions will serve to toll those deadlines set forth in the [*October 12 Order*] impacted during this time period and those deadlines will be deemed to have been extended to permit full consideration of those Petitions.

November 9, 2012 Secretarial Letter at 1-2 (notes omitted).

**II. Discussion**

We note that any issue we do not specifically address herein has been duly considered and will be denied without further discussion. It is well settled that we are 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); also see, generally, *University of Pennsylvania v. Pa. PUC*, 485 A.2d 1217 (Pa. Cmwlth. 1984).

**A. Reconsideration is Granted**

The Code establishes a party’s right to seek relief following the issuance of our final decisions pursuant to Subsections 703(f) and (g), 66 Pa. C.S. § 703(f) and § 703(g), relating to rehearings, as well as the rescission and amendment of orders. Such requests for relief must be consistent with Section 5.572 of our Regulations, 52 Pa. Code § 5.572, relating to petitions for relief following the issuance of a final decision. The standards for granting a Petition for Reconsideration were set forth in *Duick v. Pennsylvania Gas and Water Company*, 1982 Pa. PUC Lexis 4, \*12-13 (1982):

A petition for reconsideration, under the provisions of 66 Pa. C.S. § 703(g), may properly raise any matters designed to convince the Commission that it should exercise its discretion under this code section to rescind or amend a prior order in whole or in part. In this regard we agree with the Court in the Pennsyl­vania Railroad Company case, wherein it was said that: “[p]arties . . . , cannot be permitted by a second motion to review and reconsider, to raise the same questions which were specifically considered and decided against them . . .” What we expect to see raised in such petitions are new and novel arguments, not previously heard, or considera­tions which appear to have been overlooked or not addressed by the Commission.

PECO contends that reconsideration should be granted because the *October 2012 Order* (1) did not directly address certain issues, (2) made inconsistent statements, and (3) included inadvertent typographical discrepancies. PECO Petition at 9. PECO states, *inter alia*, that its

… most immediate concern is procuring default service supply contracts for delivery of power on June 1, 2013, consistent with DSP II. The Independent Evaluator has informed PECO that the [*October 2012 Order*] may not be viewed by potential bidders as sufficiently final. Therefore, the Independent Evaluator recommended that PECO:   
(1) obtain affirmation of the finality of the Order as to procurement issues; and (2) pending such affirmation, postpone the previously scheduled November 2012 DSP II procurement to December 2012.

*Id.* at 3.

CAUSE/TURN contends that Reconsideration should be granted to clarify the timing of certain changes to PECO’s customer assistance program (CAP) structure. CAUSE/TURN Petition at 2. In addition, CAUSE/TURN asks that the Commission clarify that parties other than PECO and the Commission’s Office of Competitive Market Oversight (OCMO) be included in the process of developing a plan to allow CAP customers to receive generation service from electric generation suppliers (EGSs). *Id*.

Based on our review of the record, including the *October 2012 Order*, the Petitions and the Answers, we will grant reconsideration and clarification. We will take this opportunity, *inter alia*, to correct typographical discrepancies and address the alleged inconsistencies in the Order. As an additional matter, we will clarify certain issues regarding our intent with respect to the EGS product offering in PECO’s Retail Opt-In Program.

**B. Authorization to Proceed with DSP II Competitive Procurements**

**1. PECO Position**

Through its Petition, PECO seeks clarification as to whether our *October 12 Order* can be considered final, within the meaning of Section 2807(e)(3.6) of the Code, 66 Pa. C.S. § 2807(e)(3.6) (relating to plans for competitive procurement of supply), given that certain issues have been referred over to a collaborative process. PECO states that its Independent Evaluator has advised PECO that potential bidders for PECO’s default supply procurement auctions may not consider the *October 12 Order* sufficiently final to permit PECO to initiate its procurement process which was approved by the Commission. *See*, *October 12 Order* at 12-45. For this reason, PECO requests that the Commission clarify that, notwithstanding the referral of certain issues to ongoing collaboratives, those portions of the *October 12 Order* which approved PECO’s competitive procurement process for its default service supply are final and PECO is authorized to proceed with the scheduled procurements. PECO Petition at 9-10.

None of the Parties filing Answers to PECO’s Petition have addressed the matter of PECO’s requested clarification on this issue.

**2. Disposition**

We will grant PECO’s request for clarification of this issue. Section 2807(e)(3.6) of the Code states:

The default service provider shall file a plan for competitive procurement with the commission and obtain commission approval of the plan considering the standards in paragraphs (3.1), (3.2), (3.3) and (3.4) before the competitive process is implemented. The commission shall hold hearings as necessary on the proposed plan. If the commission fails to issue a final order on the plan within nine months of the date that the plan is filed, the plan shall be deemed approved and the default service provider may implement the plan as filed. Costs incurred through an approved competitive procurement plan shall be deemed to be the least cost over time as required under paragraph (3.4)(ii).

66 Pa. C.S. § 2807(e)(3.6).

The *October 12 Order* specifically addressed PECO’s proposed competitive procurement plan. In that Order, we found, *inter alia*:

11. That PECO’s DSP II contains all of the elements of a default service plan required by the Code, the Commission’s default service regulations (52 Pa. Code §§ 54.181-54.189), and the Commission’s Policy Statement on Default Service (52 Pa. Code §§ 69.1801 – 69.1817), *including procurement*, implementation, and contingency plans, a rate design plan, and copies of the agreements and forms to be used in procurement of default service supply.

12. That PECO’s Petition for Approval of Its Default Service Program is in compliance with 66 Pa. C.S. § 2807(e)(3.7) in that *it includes prudent steps necessary: (1) to negotiate favorable generation supply contracts; (2) to obtain least cost generation supply contracts; and (3) because neither the Default Supply Service Providers nor their affiliated interests have withheld from the market any generation supply in a manner that violates federal law*.

*October 12 Order* at 155 (emphasis added).

The above quoted findings specifically relate, in part, to PECO’s proposed competitive procurement program and provide the necessary statutory declarations that the proposed procurement complies with the Code and this Commission’s Regulations and policy statements. Accordingly, those findings and declarations are final with respect to PECO’s proposed competitive procurement program.

We acknowledge that several issues relating to Retail Market Enhancement Programs have been referred to ongoing collaboratives. Our disposition of those issues in no way affects the finality of our disposition of PECO’s proposed competitive procurement program. For these reasons, we will grant PECO’s requested clarification regarding the finality of our *October 12 Order* with respect to PECO’s proposed competitive procurement program. Our *October 12 Order* provided PECO with the requisite authority to proceed with its default supply procurements, consistent with that *Order*.

PECO is also requesting our approval of a slight modification to the scheduled November procurement for the default service residential class in order to provide clarity to potential bidders. PECO Petition at 10. PECO requests that the November procurement be conducted in December.

We are of the opinion that PECO’s request for additional time to ensure that the necessary information is timely conveyed to bidders is in the public interest. As such, we approve PECO’s request to move the default service procurement for the residential class, which was originally proposed for November, to December.

**C. Cost Recovery for Retail Market Enhancement Programs**

**1. PECO’s Position**

PECO states that in the *October 12 Order*, the Commission appears to have provided conflicting guidance on whether the costs of its Retail Market Enhancement (RME) Programs should be recovered from Electric Generation Suppliers (EGSs) or customers. PECO Petition at 10. PECO notes that in Ordering Paragraph No. 14 of the *October 12 Ord*er, the Commission stated that the Parties should submit a proposal “on how electric generation suppliers will pay for the costs of the Retail Market Enhancement Programs.” *See*, *October 12 Order* at 155. However, PECO points out that in the *body* of the Order, the Commission stated that the proposal should address “how participating EGSs *or customers* will pay for the costs of market enhancements approved in this DSP proceeding.” *See, October 12 Order* at 148 (emphasis added). PECO Petition at 10-11. PECO requests clarification that the costs of its RME Programs are to be recovered from EGSs only, not customers, consistent with the Commission’s position in the *IWPF Order*. *Id*. at 11. PECO asserts that in the absence of such clarification, discussions with other stakeholders regarding cost recovery will be unnecessarily complicated, and the Company will be unlikely to reach full agreement on any cost recovery proposal for submission to the Commission in accordance with the *October 12 Order*. *Id*.

**2. OCA’s Position**

The OCA supports PECO’s request for the Commission to clarify that the costs for the RME Programs will be recovered from the EGSs and not the customers, and that the only matter to be addressed on this issue is the mechanism by which those costs would be collected from the EGSs. OCA Answer at 2. Like PECO, the OCA notes that Ordering Paragraph No. 14 of the *October 12* *Order* directs the Company and EGSs to submit a proposal regarding how EGSs will pay for the RME Program costs. *Id*. at 4. The OCA further notes that language on Page 91 of the *October 12 Order* also refers to the requirement that PECO and other parties provide proposals on EGS payment for the RME Programs. *Id*., citing *October 12 Order* at 91. However, like PECO, the OCA is troubled by the fact that on Page 148 of the *October 12 Order*, the Commission directs PECO and other interested parties to provide proposals addressing how participating EGSs *or customers* will pay for the costs of RME Programs. *Id*. at 5. The OCA asserts that:

[t]his additional language is without explanation and contrary to the language in other sections of the [*October 12 Order*], Ordering Paragraph 14, PECO’s proposal in this proceeding, the ALJ’s Recommended Decision, and the Commission’s [*IWPF Order*] and . . . *[Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company, and West Penn*

*Power Company for Approval of Their Default Service Programs,* Docket Nos. P-2011-2273650, *et al*.]

*Id*. at 5.

**3. RESA’s Position**

RESA recommends that PECOs request for clarification on this issue be denied. RESA takes the position that it was the Commission’s intent that the Parties resolve this issue on their own, without Commission intervention. RESA believes that the Commission should not provide direction or guidance on this issue unless the parties are unable to reach a mutual resolution. RESA Answer at 2. As RESA explains:

PECO’s request that the Commission issue an order limiting how the cost recovery mechanisms can be designed is unnecessary at this point since it may foreclose the ability of parties to reach a negotiated settlement that factors into it all the interrelated issues. Thus, rather than grant PECO’s petition, RESA submits that the better outcome would be for the Commission to make clear that parties are permitted to exercise flexibility in resolving this issue.

*Id*. at 3.

**4. FES’s Position**

FES also recommends that PECO’s request for clarification on this issue be denied. FES argues that PECO’s interpretation of the Commission’s position in the *IWPF Order*, *i.e*., that RME Program costs are to be recovered from EGSs only, is contradicted by the plain language of the *October 12 Order*. FES Answer at 2. FES notes that the language in the *October 12 Order* requiring that proposals be submitted to address how both EGSs *or* customers will pay for the costs of RME Programs also appears in a motion issued by Commissioner Witmer that was adopted at the September 27, 2012 Public Meeting. *See, Motion of Commissioner Pamela A. Witmer, Petition of PECO Energy Company for Approval of its Default Service Program II*, P-2012-2283641, Motion adopted at Public Meeting of September 27, 2012, at 4 (*Witmer Motion I*); FES Answer at 3. Thus, FES rejects PECO’s contention that the Commission has provided conflicting guidance in this issue. *Id*.

FES asserts that in the *October 12 Order*, the Commission placed primary responsibility for RME Program cost recovery on the EGSs, but also permitted limited sharing of costs with customers to ensure the programs succeed. *Id*. As FES contends:

While FES has expressed a preference that all customers, in any class eligible to participate, bear the costs of these programs, FES recognizes that the October 12 Order clearly expressed the Commission’s preference for EGSs to bear program costs. However, the Commission also expressed its firm belief that the resolution of the cost allocation issue is “the cornerstone to the success of these programs,” since the programs “can jumpstart the market only if they are carried out.” October 12 Order, slip op. at 148-49. For the programs to be carried out, it is critical for EGSs to be certain of the level of program expenses they will incur. As FES explained in briefs, unless an EGS’s costs per customer is a known, capped amount, it is unreasonable to expect significant EGS participation. FES R.B. at 27-29.

*Id*. at 3-4.

FES avers that having EGSs bear the primary responsibility for RME Program costs while still allowing limited sharing of costs with customers is consistent with the *IWPF Order*. In this regard, FES argues as follows:

With respect to Standard Offer programs, the *IWP Order’s* guideline was that “*the bulk* of the costs, including the costs of maintaining the referral programs once they are put into place, should be the responsibility of the participating EGSs.” *IWP Order*, slip op. at 32 (emphasis added). Similarly, with respect to Opt-In Auction Programs, the *IWP Order’s* guidelines state that “in general, most, if not all, of these costs should be recovered from participating suppliers.” *IWP Order*, slip op. at 84. PECO’s proposal to clarify the October 12 Order to foreclose cost sharing will ensure the programs do not succeed, and therefore must be rejected.

*Id*. at 4.

Finally, FES rejects PECO’s contention that if the Commission does not clarify that RME Program costs are to be born exclusively by EGSs, the discussions with other stakeholders on this issue will be unnecessarily complicated, and full agreement on any cost recovery proposal will be unlikely. FES avers that such a contention is speculative since PECO has not yet initiated discussions with other parties. *Id*. at 5. FES further asserts that this contention is reminiscent of PECO’s argument regarding another cost recovery matter in this proceeding, wherein PECO contended that recovery of the costs of its Standard Offer Program through any mechanism other than the purchase of receivables discount would add administrative complexity to the program. *Id*., citing PECO M.B. at 75-76. FES submits that the Commission did not accept this argument, and concludes that

. . . the [*October 12 Order]* strongly indicates that the need for a cost recovery methodology that allows these programs to succeed outweighs PECO’s concerns with complexity in administration or, in the present case, the need to attempt potentially challenging negotiations.

*Id*.

**5. EGS Parties’ Position**

The EGS Parties contend that PECO’s request for clarification on this issue is, in actuality, a request for the Commission to reconsider its conclusion in the matter, and ignores the plain context of that conclusion. EGS Parties Answer at 2. The EGS Parties acknowledge that in the *October 12 Order*, the Commission stated that “we agree with the ALJ that our position articulated in the *IWPF Order* was and continues to be that EGSs should be responsible for these costs.” EGS Parties Answer at 2; *October 12 Order* at 148. However, the EGS Parties point out that the Commission then went on to state as follows:

However, at this juncture we do not believe we have sufficient information to adopt PECO’s proposal. Upon review of the EGS positions in this proceeding, the Commission has significant concerns that the POR discount method of allocating costs may be a significant barrier to EGS participation. Accordingly, PECO, EGSs and interested parties are directed to resubmit a plan or proposal within Sixty (60) days of the date of entry of this Opinion and Order, for Commission review and approval, addressing how participating EGSs or *customers* will pay for the costs of market enhancements approved in this DSP proceeding.

*October 12 Order* at 148 (emphasis added); EGS Answer at 2-3. Thus, the EGS Parties argue that while the Commission stated that its initial position was that EGSs should be responsible for the RME Program costs, it clearly reconsidered that view in this case, and now has decided to allow proposals that would provide for customers paying for at least a portion of those costs. EGS Parties Answer at 3.

The EGS Parties conclude:

PECO’s suggestion that the Commission’s inclusion of the words “or customers” in the Order must have been an error simply ignores the context provided by the statements in the preceding and subsequent paragraphs. PECO is not asking for clarification. Rather, it is asking the Commission to reconsider and change its obvious intention that customers could be asked to pay for RME expenses if the collaborative concludes that it is appropriate. It is inappropriate for PECO to attempt to remove that option, to effectively take it off the table for discussion in the collaborative, when the Commission’s Order clearly made that outcome a possibility.

*Id*.

Accordingly, the EGS Parties assert that PECO’s request for reconsideration on this issue should be denied, or in the alternative, that the Commission should clarify “that it intended that customers could share the costs for retail market enhancements in order to eliminate the ‘significant barrier’ to EGS participation that the Commission has identified in this proceeding.” *Id*.

**6. Disposition**

We find that there is no inconsistency in the *October 12 Order* regarding our treatment of this issue. We clearly state on Page 148 that:

. . . PECO, EGSs and interested parties are directed to resubmit a plan or proposal within sixty (60) days of the date of entry of this Opinion and Order, for Commission review and approval, addressing how participating EGSs *or customers* will pay for the costs of market enhancements approved in this DSP proceeding.

*October 12 Order at 148* (emphasis added). Accordingly, we intend that any discussion among the interested Parties regarding the development of a plan to address RME Program cost recovery include consideration of the possibility that customers as well as EGSs may be responsible for some program costs.

As FES points out, while we expressed our belief in the *IWPF Order* that *most* RME Program costs should be the responsibility of the EGSs, we did not preclude the possibility that some costs may, in fact, be more appropriately recovered from participating customers. *See, IWPF Order* at 32 and 84. Similarly, the fact that certain portions of the *October 12 Order* specifically refer to cost recovery by EGSs does not conflict with our clear direction that the Parties consider the possibility that customers may bear some cost responsibility as well. Thus, we envision that one of the purposes of the collaborative process among PECO and other interested parties will be to address this possibility, in addition to determining the most appropriate cost recovery mechanism to put in place. Accordingly, we deny PECO’s request that we clarify that the costs of its RME Programs are to be recovered from EGSs only, and not customers.

**D. PECO’s Compliance with the Requirement to Develop a CAP Shopping Plan**

**1. PECO’s Position**

PECO is requesting clarification regarding certain directives provided by the Commission with respect to the development of a plan to allow Customer Assistance Program (CAP) customers to purchase their generation supply from EGSs. These directives were set forth in Ordering Paragraph No. 18 of the *October 12 Order* as follows:

18. That PECO Energy Company is directed to develop a plan that will allow its CAP customers to purchase their generation supply from EGSs by January 1, 2014. Toward this end, we shall direct OCMO to work with PECO to: (1) ensure that, to the extent possible, the Opt-In and Standard Offer Programs are available to CAP customers; and (2) provide a path that allows both CAP credits and LIHEAP funds to be used by customers that choose an EGS to supply their generation service.

*October 12 Order at 156*. However, PECO states that the Commission did not specify whether the January 1, 2014 deadline was the date for filing the plan, or the date by which the plan should be implemented. PECO Petition at 11.

PECO asserts that since a number of other Parties in this proceeding have provided conflicting viewpoints on the issues that need to be addressed with regard to PECO’s CAP shopping plan, the Company anticipates that these Parties will also wish to participate, along with OCMO, in a collaborative process with the Company to develop a CAP shopping plan. *Id*. PECO submits that in its experience, “a collaborative process among the stakeholders is typically useful to eliminate, minimize, or more clearly define the stakeholders’ differences of opinion.” *Id*. at 12. PECO states that it proposes to commence such a collaborative process immediately, and to file a CAP shopping plan with the Commission no later than March 31, 2013. *Id*. PECO contends that if the stakeholders are able to reach full consensus by the March 31, 2013 filing, there will be little or no need for additional testimony or hearings on the CAP shopping plan, and the Commission would thus be able to issue its final approval of the plan shortly thereafter. However, PECO asserts that if the stakeholders are unable to reach full consensus by the proposed March 31, 2013 filing date, there may be a need for additional testimony or hearings, and the Company may need to await Commission resolution of the disputed issues before it can proceed to implement the CAP shopping plan. *Id*.

PECO avers that it is not possible to predict the scope or length of litigation that may be necessary to resolve any contested issues regarding the CAP shopping plan. However, PECO estimates that it will take approximately nine to twelve months to fully implement the plan, once its final form is known and approved. *Id*. PECO contends that if the stakeholders are able to reach consensus on a plan by March 31, 2013, and litigation is avoided or minimized, full implementation of the plan by January 1, 2014, may be achievable. *Id*. at 13. However, PECO asserts that if the stakeholders are unable to reach consensus by March 31, 2013, and litigation extends further into 2013, full implementation of the plan by January 1, 2014, does not appear to be achievable. *Id*.

PECO argues that it cannot control whether stakeholders will be able to come to consensus; nor can it control the scope or length of any litigation that may develop if consensus is not reached. Therefore, PECO seeks clarification that if it engages in the collaborative process as described, and files its CAP shopping plan with the Commission by March 31, 2013, it will be deemed to be in material compliance with Ordering Paragraph No. 18, even if future litigation delays implementation of the plan until after January 1, 2014. *Id*.

**2. CAUSE/TURN’s Position**

Like PECO, CAUSE/TURN also seeks clarification regarding the timing aspects of the development of PECO’s CAP shopping plan. CAUSE/TURN notes that at the September 27, 2012 Public Meeting, the Commission approved a motion issued by Commissioner Witmer that recommended PECO be directed “to develop a plan that, by January 1, 2014, allows its CAP customers to purchase their generation supply from Electric Generation Suppliers.” *See, Motion of Commissioner Pamela A. Witmer, Petition of PECO Energy Company for Approval of its Default Service Program II*, P-2012-2283641, Motion adopted at Public Meeting of September 27, 2012, at 1 (*Witmer Motion II*); CAUSE/TURN Petition at 3. CAUSE/TURN further notes that the Commission incorporated the language of the *Witmer Motion II* in the *October 12 Order* by stating that “[r]ather than delay the inclusion of CAP customers within PECO’s RME Programs, we direct PECO to develop a plan that will allow its CAP customers to purchase their generation supply from EGSs by January 1, 2014.” *October 12 Order* at 131; CAUSE/TURN Petition at 3. CAUSE/TURN contends that there are two plausible readings of the *Witmer Motion II* and the *October 12 Order* regarding the CAP shopping plan. One reading is that PECO must simply develop a plan by January 1, 2013, that would allow its CAP customers to receive EGS service at some point in the future. A second reading is that PECO must develop a plan that would allow its CAP customers to begin receiving service from EGSs on January 1, 2014. CAUSE/TURN Petition at 3-4.

CAUSE/TURN also points out that on September 27, 2012, the Commission issued a Secretarial Letter directing OCMO to develop a plan to allow CAP customers to receive service from an EGS to be effective no later than January 1, 2015. *Id*. at 4. CAUSE/TURN notes that this Secretarial Letter was issued as part of the Commission’s Retail Markets Investigation (RMI) established at Docket No. I-2011-2237952, and included an attached discussion document entitled “RMI End State Proposal,” which stated that OCMO will develop a plan to allow CAP customers to purchase supply from an EGS, to go into effect no later than January 1, 2015. *Id*. CAUSE/TURN contends that if the language in the *October 12, 2012 Order* is interpreted to mean that PECO is to develop a plan that will allow CAP customers to purchase generation supply from EGSs by January 1, 2014, such an interpretation would be inconsistent with the September 27 Secretarial Letter, which sets a date of January 1, 2015, a year later. *Id*.

CAUSE/TURN concludes as follows:

In light of the Commission’s apparent intentions, as expressed through the September 27, 2012 Secretarial Letter to develop generally applicable rules for CAP customers’ entry into the competitive market by January 1, 2015, CAUSE/TURN submit that the Commission should clarify its October 12, 2012 Order in this proceeding to assure consistency with the timeline it set out in its RMI End State proposal, which parties anticipate will be incorporated into the Commission’s RMI End State Tentative Order expected to be issued on or about November 8, 2012. It would seem imprudent for PECO to develop a plan to allow its CAP customers to receive generation service from an EGS without taking into consideration any plan developed through the processes anticipated by OCMO in the Commission’s End State process.

Accordingly, CAUSE/TURN respectfully request that the Commission clarify the time frame for the *development and implementation* of a plan by PECO for the modification of its CAP program to allow CAP customers to receive generation service from an EGS.

*Id*. at 4-5.

In addition to raising timing issues, CAUSE/TURN also argues that PECO should be required to develop its CAP shopping plan in coordination with both OCMO *and* members of the PECO Universal Services Advisory Committee (USAC),[[2]](#footnote-2) as it has done with regard to other changes to its CAP and Universal Service and Energy Conservation Plan over the fourteen-plus years of USAC’s existence. *Id*. at 5. CAUSE/TURN submits that PECOs CAP program is complicated, and asserts that the *Witmer Motion II* recognized the complicated nature of any transition from PECO’s current program to one that would allow CAP customers to receive EGS service. *Id*. at 6. Thus, CAUSE/TURN asserts:

. . . that any revision to PECO’s CAP program must ensure that CAP customers receiving either default service or EGS provided service continue to receive a bill which conforms to the Commission’s Universal Service Policy Statement, PECO’s current Universal Service Plan and the various Settlements which PECO has entered and the Commission has approved regarding PECO’s universal service requirements.

CAUSE/TURN submit that the process to develop a plan that will allow PECO CAP customers to receive generation supply from EGSs will need to deal with the key terms in prior settlement agreements. CAUSE/TURN further submit that PECO’s universal service programs have benefited by the input provided by its USAC and that broader stakeholder input would continue to be beneficial for appropriate program design.

Accordingly, CAUSE/TURN respectfully request that the Commission clarify that PECO should develop its transition plan in coordination with and based on input from OCMO and its USAC. The input of PECO’s USAC in the development of PECO’s transition of its CAP program to allow shopping will be invaluable given the committee members’ working knowledge of PECO’s current CAP program and will compliment OCMO’s working knowledge of the competitive generation markets.

*Id*. at 6-7.

**3. Disposition**

As an initial matter, we wish to clarify that our directive in the *October 12, 2012 Order* regarding PECO’s development of a CAP shopping plan was meant to require that such a plan be *ready for implementation* by January 1, 2014. This interpretation of our directive is made most clear in the language of the *Witmer Motion II*, which provided that PECO be directed “to develop a plan that, by January 1, 2014, allows its CAP customers to purchase their generation supply from Electric Generation Suppliers.” *Witmer Motion II* at 1. Furthermore, we disagree with CAUSE/TURN that this interpretation is inconsistent with the September 27 Secretarial Letter, which sets an implementation date of January 1, 2015. As we stated in our recently-issued Tentative Order in *Investigation of Pennsylvania’s Retail Electricity Market: End State of Default Service*:

The Commission has already directed PECO to develop a plan that allows its CAP customers, by January 1, 2014, to purchase their generation supply service from competitive suppliers. *Petition of PECO Energy Company for Approval of its Default Service Program II*, P-2012-2283641, Order entered October 12, 2012, at 131-132. We propose that all other EDCs, if they have not done so already, develop plans that allow their CAP customers, on or before January 1, 2015, to shop in the competitive market without restriction. In addition, OCMO will work with those remaining EDCs to ensure that CAP customers throughout the Commonwealth are able to purchase supply from an EGS no later than January 1, 2015.

*Investigation of Pennsylvania’s Retail Electricity Market: End State of Default Service*, Docket No. I-2011-2237952, (Tentative Order entered November 8, 2012) (*RMI End State Tentative Order*), at 22. Thus, under the plan developed by PECO, the Company’s CAP customers must be able to begin purchasing generation supply from EGSs by January 1, 2014. All other EDCs who have not yet developed CAP shopping plans have been directed to do so by January 1, 2015.

Having established that PECO’s plan must provide CAP customers with the ability to shop for generation supply by January 1, 2014, we will address PECO’s concerns regarding its ability to meet that deadline. In this regard, we recognize the challenges involved in the development of any plan that would allow CAP customers to purchase generation supply service from competitive suppliers, and we are generally supportive of PECO’s intention to address the complex issues involved by engaging in a collaborative process that would include not only OCMO, but other stakeholders as well. Indeed, in our *RMI End State Tentative Order,* we proposed that EDCs consult with consumer and community groups in their service territory when developing their CAP shopping plans. *RMI End State Tentative Order* at 23. However, we are concerned that the inclusion of a multitude of parties at the initial stage of the process may serve to hinder rather than promote the timely development of a CAP shopping plan for PECO. Accordingly, we will repeat our directive that PECO work initially with OCMO in the development of its CAP shopping plan. *See, October 12 Order* at 131-132, 156. Once that plan has been filed with the Commission, other interested parties may then join the discussion, and the plan can be further refined if need be.

In addition, we wish to note that although PECO appears to be concerned with reaching consensus with all stakeholders, consensus is not the goal in this matter. While agreement among stakeholders would certainly be a favorable development, the onus is on PECO – not other parties – to develop and submit a plan that will allow its CAP customers to begin purchasing their generation supply beginning January 1, 2014. Moreover, we believe it would be premature at this stage to anticipate that future litigation in this matter will necessarily preclude PECO from meeting this deadline. Therefore, we will uphold our directive that PECO develop a CAP shopping plan that can be implemented by January 1, 2014, and will deny PECO’s request that we consider the Company to be in material compliance with that directive as long as it engages in a collaborative with stakeholders and files its plan by March 31, 2013, even if future litigation delays implementation of the plan until after that date. Should problems arise regarding implementation timelines in the future, those can be addressed at that time.

With regard to CAUSE/TURN’s request that we require PECO to develop its CAP shopping plan in coordination with both OCMO and PECO’s USAC, we will reiterate our position that PECO must first work exclusively with OCMO in developing its plan. Once that plan has been filed with the Commission, other interested parties – including PECO’s USAC – will be welcome to participate in any discussion to refine the plan further. Therefore, we deny CAUSE/TURN’s request to require PECO to work with both OCMO and the Company’s USAC in developing its CAP shopping plan.

**E. Timing of the Commission’s Review of Terms and Conditions Governing Eight-Month Opt-In Product Offerings**

**1. PECO’s Position**

PECO notes that in the *October 12 Order*, the Commission directed EGSs who elect to participate in the Company’s EGS Retail Opt-In Competitive Offer Program to submit for Commission review and approval the terms and conditions of their eight-month Opt-In Program offering no later than forty-five days before offers are extended to potential customers. *See, October 12 Order* at 156. However, PECO contends that the Commission did not provide guidance on whether such filing should occur prior to the mailing of the initial customer offer letter, or forty-five days before the expiration of the four-month introductory product with pricing at least five percent below the applicable Price-to-Compare (PTC). PECO Petition at 13. PECO requests clarification on this issue so that efforts to develop a proposed application and form requirements for participating EGSs with other parties can be appropriately focused. *Id*. at 13-14.

**2. OCA’s Position**

The OCA supports PECO’s request for clarification regarding the timing of the filing of the terms and conditions of the eight-month Opt-In price offering. The OCA submits that the filing of this information should be made in advance of the initial customer offer letter and customer enrollment so that customers will have complete information about the program before making a decision. OCA Answer at 6. The OCA argues:

The OCA’s position throughout this proceeding has been that customers should be fully informed of the terms and conditions prior to enrollment in the Opt-In program. Lack of complete information could potentially dissuade customers from participating in the Opt-In program or result in dissatisfaction with the program when they do receive the eight-month offering terms and conditions. The OCA submits that a better approach for customers is to provide the customer with all of the terms and conditions, including the 8‑month price, in the initial customer offer letter.

*Id*. (citations omitted).

**3. RESA’s Position**

RESA asserts that the Commission has already issued an order in the FirstEnergy default service proceeding that addresses this timing issue. RESA Answer at 3. As RESA further explains:

Specifically, in response to the direct request of Washington Gas Energy Services, Inc. (“WGES”), the Commission ordered that “the terms and conditions of the EGS offerings shall be submitted to the Commission *no later than* forty-five days before the offers are extended to potential customers” and that the implementation details regarding this issue were to be developed as part of the collaborative process.

*Id*. at 3-4, citing *Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company for Approval of their Default Service Programs*, Docket Nos. P-2011-2273650, *et al.,* (Amended Opinion and Order entered October 11, 2012) at 19 (footnote omitted) (emphasis in original). RESA concludes that like PECO’s request regarding the RME Program cost recovery issue, the Company’s request for clarification on this matter is unnecessary since it may foreclose the ability of parties to reach a negotiated settlement of the issue. RESA Answer at 4.

**4. FES’s Position**

FES states that it strongly supports PECO’s first interpretation of this timing requirement, *i.e*., that EGSs submit the terms and conditions of their eight-month offerings to the Commission prior to the mailing of the initial customer offer letter. FES Answer at 6. FES notes that the *October 12 Order* specifically requires these filings to be submitted forty-five days before offers are extended to *potential* customers, arguing that the only time a customer will be a “potential” customer is prior to enrollment. *Id*. Moreover, FES contends that the second interpretation, *i.e*., requiring EGSs to file their terms and conditions forty-five days before the expiration of the four-month introductory product with pricing at least five percent below the applicable PTC, would allow EGSs to avoid disclosing the eight-month price prior to the customer’s decision regarding whether to enroll in the Opt-In Program. *Id*. at 6-7. As FES argues:

Such late disclosure would force customers participating in the [Retail Opt-In Program], who have little or no experience with shopping and are less than four (4) months removed from utility default service, to comprehend that their price will change after four (4) months in the program and that they must make another shopping decision after only a few months. This approach creates risk of customer confusion and frustration and bad impressions of retail electric competition, contrary to a purpose of the retail market enhancement programs which is to introduce customers to the retail market without significant risk.

*Id*. at 7 (citation omitted). Accordingly, FES avers that this interpretation should be rejected, and the *October 12 Order* should be clarified to require EGSs to submit the terms and conditions of their eight-month Opt-In offering forty-five days prior to the mailing of the initial customer offer letter. *Id*.

**5. Disposition**

We clarify that our intent regarding the EGS filing of the terms and conditions of its eight-month product offering is that such filing be made at least forty‑five days before the offers for the *eight-month fixed price product* are extended to customers. An EGS that elects to participate in the Retail Opt-In Program *may* submit its filing in advance of that deadline (including the submission of its filing before its initial customer offer letter is mailed), but will not be required to do so.

**F. Timing for Revised EGS Applications and Form Agreements**

**1. PECO’s Position**

PECO notes that in the *October 12 Order*, the Commission established a sixty-day timeline for the filing of a revised default service plan (including a cost recovery proposal for the RME Programs), and a thirty-day timeline for proposals regarding the EGS applications and form agreements. *See, October 12 Order* at 156-157; PECO Petition at 14. PECO submits that while it appreciates the Commission’s concern for the Retail Opt-In Program Schedule, the substantive provisions of the EGS applications and form agreements are dependent upon overall program design decisions, including cost recovery for the RME Programs. PECO Petition at 14. PECO argues that any form applications and agreements submitted before PECO and other stakeholders have completed their discussions regarding the RME Programs are likely to require further revision. Therefore, PECO requests that the Commission extend the timeline for proposals regarding the EGS applications and form agreements from thirty to sixty days so that those documents may be prepared consistent with the results of the RME Programs discussions mandated by the Commission. *Id*.

**2. Disposition**

We agree with PECO that the EGS applications and form agreements relating to the RME Programs are dependent upon overall program design decisions, including cost recovery for the RME Programs. Therefore, in consideration of the fact that we have established a sixty-day timeline for PECO to file a revised default service plan, we will extend the timeline for the filing of proposals relating to the applications and form agreements to sixty days as well. We will reopen the record of this proceeding to accommodate the filing of these proposals on or before the end of the sixty-day period following the date of entry of the *October 12 Order*. Following the submission of the proposals, we will issue a further Opinion and Order addressing the filings. We note, as we did in the *October 12 Order*, that if the Parties are unable to settle their differences regarding this issue, we will decide the issue based on the record in this proceeding and the recommendation(s) that have been submitted by the Parties. *October 12 Order* at 107.

**G. Typographical Discrepancies**

**1. PECO’s Position**

Finally, PECO requests clarification on the following items, which it believes to be the result of inadvertent typographical discrepancies in the *October 12 Order*:

(1) In Ordering Paragraph 14, the Commission states that the cost recovery proposal for the Retail Market Enhancement Programs should “be filed pursuant to Ordering Paragraph No. 18, *infra*”. However, Ordering Paragraph 18 discusses a filing related to CAP customers that must be completed by January 1, 2014. The Company requests clarification that the Commission intended to refer to Ordering Paragraph 20, which discusses the filing of a revised Default Service Plan within 60 days of the October 12 Order.

(2) In Ordering Paragraph 19, the Commission provides direction regarding the Company’s “Default Service Supply Riders.” PECO did not propose any Default Service Supply Riders in this proceeding. PECO requests clarification that the Commission included Ordering Paragraph 19 in error.

PECO Petition at 14-15.

**2. Disposition**

PECO is correct that the reference to Ordering Paragraph No. 18 in Ordering Paragraph No. 14 of the *October 12 Order* should have been made to Ordering Paragraph No. 20, wherein PECO is directed to file a revised default service plan within sixty days of the entry of the *October 12 Order*.

Likewise, PECO is correct that Ordering Paragraph No. 19 of the *October 12 Order* should not have been included as an Ordering Paragraph. Accordingly, the directives set forth in Ordering Paragraph No. 19 should be ignored as being unrelated to this proceeding, and Ordering Paragraph No. 19 shall be deemed to be stricken from the *October 12 Order*.

**H. Clarification of PECO’s Retail Opt-In Program**

During our review of the *October 12 Order* for purposes of ruling on the two Petitions now before us, we have become aware of the need to clarify our intent regarding the intended Opt-In Program (*October 12 Order* at 90) as well as our intent regarding the structure of the Opt-In Auction (*October 12 Order* at 103).[[3]](#footnote-3)

In our description of the Retail Opt-In product, we stated that the Retail Opt-In Program would include, *inter alia*:

A twelve-month product, comprised of a fixed price for four months equal to a discount of *at least* 5% off the PTC at the time of enrollment, and an EGS-provided fixed-price product for the remaining eight months;

*October 12 Order* at 90 (emphasis added). We also stated that this proposal “mirrors” the Commission’s decision in *Joint Petition of Metropolitan Edison Co., Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company for approval of their Default Service Programs*, Docket Nos. P-2011-2273650, *et al.*, (Order entered August 16, 2012) (*FE DSP Order*). *October 12 Order* at 90, *n*. 18.

Since our intent was clearly to “mirror” the *FE DSP Order*, the product description should read:

A twelve-month product, comprised of a fixed price for four months guaranteed to be 5% off the PTC at the time of enrollment, and an EGS-provided fixed-price product for the remaining eight months;[[4]](#footnote-4)

On this basis, the Retail Opt-In Program price is, essentially, a set amount. Accordingly, there is no need for an auction structure as recommended by the ALJ in this proceeding. The ALJ’s recommended auction structure became moot when we modified the Retail Opt-In Program product design to mirror that set forth in the FirstEnergy Companies’ Default Service proceeding. Our disposition of the Retail Opt-In Auction Structure issue in the *October 12 Order* at Page 103 (adopting the ALJ’s recommendation) should be disregarded in that the auction structure issue has been rendered moot. This is also consistent with our determination in the FirstEnergy Companies’ Default Service proceeding. *FE DSP Order* at 131.

**III. Conclusion**

Based upon the foregoing discussion, we shall (1) grant in part and deny in part PECO’s Petition for Clarification and Reconsideration, consistent with this Opinion and Order; (2) grant in part and deny in part CAUSE/TURN’s Petition for Clarification, consistent with this Opinion and Order; (3) resolve alleged inconsistencies in the *October 12 Order,* consistent with this Opinion and Order; (4) correct typographical discrepancies contained in the *October 12 Order*, consistent with this Opinion and Order; and (5) clarify our intent with respect to the EGS product offering in PECO’s Retail Opt-In Program, consistent with this Opinion and Order; **THEREFORE,**

**IT IS ORDERED:**

1. That the Petition for Clarification and Reconsideration filed by PECO Energy Company on October 31, 2012, is granted in part, and denied in part, consistent with this Opinion and Order.

2. That the Joint Petition for Clarification filed by the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania, the Tenants Union Representative Network and the Action Alliance of Senior Citizens of Greater Philadelphia on October 29, 2012, is granted in part, and denied in part, consistent with this Opinion and Order.

3. That the Commission’s Opinion and Order entered on October 12, 2012, in this proceeding is deemed to be final with respect to PECO Energy Company’s competitive procurement program for default service supply.

4. That PECO Energy Company is authorized to conduct its scheduled November 2012 procurement for the default service residential class in December 2012.

5. That PECO Energy Company’s request for the Commission to clarify that the costs relating to PECO Energy Company’s Retail Market Enhancement Programs shall be recovered from participating electric generation suppliers only, and not from customers, is denied.

6. That PECO Energy Company shall develop a plan that will allow its CAP customers to purchase their generation supply from electric generation suppliers consistent with Ordering Paragraph No. 18 of the Commission’s Opinion and Order entered on October 12, 2012, in this proceeding, and that such plan be shall implemented on or before January 1, 2014.

7. That PECO Energy Company’s request that the Commission consider the Company to be in material compliance with Ordering Paragraph No. 18 of the Commission’s Opinion and Order entered on October 12, 2012, in this proceeding as long as it engages in a collaborative with stakeholders and files its plan by March 31, 2013, even if future litigation delays implementation of the plan until after January 1, 2014, is denied.

8. That the request of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania, the Tenants Union Representative Network and the Action Alliance of Senior Citizens of Greater Philadelphia, that the Commission require PECO Energy Company to include its Universal Services Advisory Committee in the collaborative process through which it develops a CAP shopping plan consistent with Ordering Paragraph No. 18 of the Commission’s Opinion and Order entered on October 12, 2012, in this proceeding, is denied.

9. That electric generation suppliers who elect to participate in PECO Energy Company’s EGS Opt-In Competitive Offer Program shall submit, for Commission review and approval, the terms and conditions of their eight-month Opt-In Program offerings no later than forty-five days before the offers for the eight-month fixed price product are extended to potential customers.

10. That within sixty days of the entry date of the Commission’s Opinion and Order entered on October 12, 2012, in this proceeding, PECO Energy Company, together with other interested Parties, shall submit a joint proposal for Commission consideration regarding the resolution of PECO Energy Company’s proposed application and form requirements for electric generation suppliers who participate in PECO Energy Company’s Opt-In Program and Standard Offer Program.

11. That the reference to Ordering Paragraph No. 18 in Ordering Paragraph No. 14 of the Commission’s Opinion and Order entered on October 12, 2012, in this proceeding shall be deemed to be a reference to Ordering Paragraph No. 20.

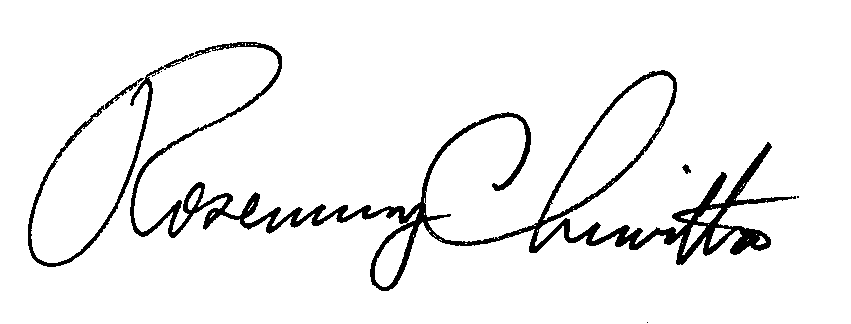
12. That Ordering Paragraph No. 19 of the Commission’s Opinion and Order entered on October 12, 2012, in this proceeding shall be deemed to be stricken from that Opinion and Order.

13. That the product to be offered by electric generation suppliers participating in PECO Energy Company’s Retail Opt-In Program shall consist of a twelve-month product, comprised of a fixed price for four months guaranteed to be 5% off the PTC at the time of enrollment, and an EGS-provided fixed-price product for the remaining eight months.

14. That the disposition of the Retail Opt-In Auction Structure issue as set forth on Page 103 of the Commission’s Opinion and Order entered on October 12, 2012, in this proceeding (adopting the ALJ’s recommendation) should be disregarded in that the auction structure issue has been rendered moot.

15. That any directive, requirement, disposition, or the like contained in the body of this Opinion and Order which is not the subject of an individual Ordering Paragraph, shall have the full force and effect as if fully contained in this part.

**BY THE COMMISSION,**



Rosemary Chiavetta

Secretary

(SEAL)

ORDER ADOPTED: November 20, 2012

ORDER ENTERED: November 21, 2012

1. The Joint Suppliers Group consists of Constellation Energy Commodities Group, Inc., Constellation NewEnergy, Inc., Exelon Generation Company, LLC, Exelon Company, NextEra Energy Services Pennsylvania, LLC, and NextEra Energy Power Marketing LLC. [↑](#footnote-ref-1)
2. CAUSE notes that PECO’s USAC is comprised of various nonprofit community organizations and legal aid practitioners, as well as representatives from the OCA. [↑](#footnote-ref-2)
3. This discussion is consistent with the Motion of Commissioner Witmer adopted in this proceeding with regard to PECO’s Retail Opt-In Program. *See, Witmer Motion I* at 3. [↑](#footnote-ref-3)
4. A description of the Retail Opt-In Product directed in the FirstEnergy Companies’ Default Service proceeding can be found in the *FE DSP Order* at 116-117. [↑](#footnote-ref-4)