ESC Statement No. 1-S

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of PECO Energy Company for	:	
Approval of Its Default Service Program	:	
for the Period From June 1, 2021 Through	:	Docket No. P-2020-3019290
May 31, 2025	:	

SURREBUTTAL TESTIMONY OF

TRAVIS KAVULLA

ON BEHALF OF
THE ELECTRIC SUPPLIER COALITION

JULY 23, 2020

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I. INTRODUCTION

Q. PLEASE STATE YOUR NAME, TITLE AND BUSINESS ADDRESS.

A. My name is Travis Kavulla and I am Vice President, Regulatory Affairs for NRG Energy, Inc. ("NRG"). My business address is 804 Carnegie Center, Princeton, NJ 08540.

Q. DID YOU PREVIOUSLY SUBMIT TESTIMONY IN THIS PROCEEDING?

A. Yes, I submitted Direct Testimony, ESC Statement No 1, on June 16, 2020.

Q. ON WHOSE BEHALF IS THIS SURREBUTTAL TESTIMONY OFFERED?

A. This Surrebuttal Testimony is offered on behalf of NRG, Direct Energy Services LLC, Interstate Gas Supply, Inc. d/b/a IGS Energy, Vistra Energy Corp., Shipley Choice LLC, ENGIE Resources LLC and WGL Energy Services, Inc. (collectively, the "Electric Supplier Coalition" or "Coalition" or "ESC"). The members of the Coalition either directly or through affiliates or subsidiaries hold licenses issued by the Pennsylvania Public Utility Commission ("PUC" or "Commission") as electric generation suppliers ("EGSs") to supply generation services to retail consumers in the service territory of PECO Energy Company ("PECO").

Q. WHAT IS THE PURPOSE OF YOUR SURREBUTTAL TESTIMONY?

A. The purpose of my Surrebuttal Testimony is to respond to various portions of the Rebuttal Testimony submitted on July 9, 2020 by PECO, the Office of Consumer Advocate ("OCA"), the Office of Small Business Advocate ("OSBA"), the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania ("CAUSE-"PA") and the Tenant Union Representative Network and Action Alliance of Senior Citizens of Greater Philadelphia ("TURN *et al.*") relating to the Petition of PECO Energy Company for Approval of its Default Service Program from June 1, 2021 through March 31, 2025 ("PECO DSP V Petition"). The witnesses submitting Rebuttal Testimony to which I am responding include: John J. McCawley (PECO St. No. 1-R); Joseph A. Bisti, (PECO St. No. 2-R); Carol Reilly (PECO St. No. 3-R); Scott G. Fisher (PECO St. No. 4-R); Steven L. Estomin (OCA St. No. 1R); Barbara R. Alexander (OCA St. No. 2R); Brian Kalcic (OSBA St. No. 1-R); Harry Geller (CAUSE-PA St. 1-R); and Philip A. Bertocci (TURN St. No. 1-R).

Q. HAVE YOU CHANGED YOUR RECOMMENDATIONS BASED ON THEIR REBUTTAL TESTIMONY?

A. Generally, I have not changed my recommendations. However, I do note throughout this Surrebuttal Testimony when I agree with another witness' view or when the Coalition is willing to accept a modification or different result based on a suggestion made by another witness. To the extent that I am silent about a witness' Rebuttal Testimony, that should not be viewed as agreement.

II. GENERAL OBSERVATIONS ABOUT COMPETITIVE RETAIL MARKET TODAY

Q. WHAT GENERAL OBSERVATIONS DID YOU MAKE IN YOUR DIRECT TESTIMONY ABOUT THE COMPETITIVE RETAIL MARKET TODAY?

A. In referring to PECO's data, I observed that less than one-third of the residential customers are shopping – a dynamic that has not changed in the past several years. I observed that without structural changes to improve the market, it is not realistic to expect that competitive retail offerings will flourish, drive significant generation investment, or result in innovative product offerings. (ESC St. No. 1 at 6).

Q. DID YOU OFFER YOUR THOUGHTS ON THE REASONS FOR THE STAGNANT MARKET?

A. Yes. Relying on the Wind Solar Alliance Report released earlier this year,[1] I pointed to the presence of a domineering default service provider ("DSP") and a persistently unlevel playing field between the DSP and EGSs. Indeed, the very presence of a DSP that is also the local transmission-and-distribution monopoly—a provider-of-first resort arrangement that has come to be accepted as inevitable, even though it was not inevitable in the design the authors of Pennsylvania's competition statute conceived[2]—biases customers toward the entity that physically meters them and bills them. Therefore, I identified several improvements should be made. (ESC St. No. 1 at 8-9).

Q. WHAT SPECIFIC IMPROVEMENTS HAVE YOU IDENTIFIED?

A. I proposed a number of specific improvements including: (i) taking steps to transition PECO out of the default service role; (ii) adopting PECO's proposed time of use rate in tandem with implementing the ability of suppliers to issue consolidated bills to customers and requiring PECO to make several modifications to this product; (iii) rejecting PECO's proposal to solicit new ten-year contracts for solar alternative energy credits; (iv) rejecting PECO's proposal for the recovery of network integration transmission service costs; (v) making changes to PECO's proposed rate design for default service so that it contains all of the cost components incurred to provide default service; (vi) rather than simply continuing the existing Standard Offer Program ("SOP"), seizing an opportunity to implement improvements that might encourage greater participation by suppliers and

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[1] Rob Gramlich & Frank Lacey, "Who's the Buyer: Retail Electric Market Structure Reforms in Support of Resource Adequacy and Clean Energy Deployment," *Grid Strategies* (prepared for Wind Solar Alliance) (March 2020). ("Wind Solar Alliance Report"). https://windsolaralliance.org/wp-content/uploads/2020/03/WSA-Retail-Structure-Contracting-FINAL.pdf (accessed June 8, 2020).

[2] 66 Pa.C.S. § 2807(e).

consumers; and (vii) avoiding structuring PECO's proposed plan for shopping by low-income customers in a way that is unduly restrictive and contains elements that would create new challenges for suppliers in their interactions with consumers. (ESC St. No. 1 at 9-10).

Q. DID OTHER WITNESSES, IN THEIR REBUTTAL TESTIMONY, COMMENT ON YOUR OBSERVATIONS ABOUT THE MARKET?

A. Yes. Mr. Geller's Rebuttal Testimony comments on these observations. According to Mr. Geller, the slow-down in residential shopping rates "is the result of excessive pricing in the competitive market, leading consumers to make an *affirmative choice* to return to or remain on default service." (CAUSE-PA St. 1-R at 4). He refers to amounts that consumers have paid on average above the price to compare over the last five years. He also estimates that in March and April of this year, residential shopping customers were charged $22,108,500 more than they would have been charged for default service. (CAUSE-PA St. 1-R at 4; CAUSE-PA Exhibit 1). Mr. Fisher also refers to instances in which competitive retail suppliers have been charging more than default service rates and cites Mr. Geller's statistics. (PECO St. 4-R at 36-37).

Q. HOW DO YOU RESPOND?

A. First, computations of the amount that consumers in the competitive market may be paying over the PTC fail to take into consideration a variety of value-added offerings that EGSs in the market provide to consumers, such as reward points, longer-term certainty (than quarterly) of prices and renewable energy products. Second, it is not surprising that the PTC for default service may be lower than prices offered in the retail competitive market, given PECO's failure to include any overhead costs in its PTC. Such omission naturally drives the PTC down to unrealistic levels, which is why the Coalition is seeking to rectify this problem in this proceeding.

Q. WHAT DOES MR. GELLER SAY ABOUT PRICE?

A. He testifies that the "primary purpose of establishing a competitive electric shopping market for residential customers is price." (CAUSE-PA St. 1-R at 4).

Q. DO YOU AGREE?

A. I certainly agree that price is an important purpose of having a competitive retail market. However, I also note a significant role of the competitive retail market is to provide consumers with access to a broad array of innovative products and services from a variety of different suppliers. Indeed, a well-functioning market entails suppliers competing with one another – not the default service provider – to bring the benefits of competition to consumers.

III. TRANSITION PECO OUT OF DEFAULT SERVICE

Q. WHAT DID YOU SUGGEST NEEDS TO OCCUR IN ORDER FOR PENNSYLVANIA TO REALIZE THE INTENDED BENEFITS OF THE COMPETITION ACT?

A. I testified that it is critical that the Commission resume its discussions from 2012 and lay the groundwork to transition Pennsylvania's retail electricity market so that all customers are shopping for electricity and "default service" becomes a true backstop service provided by EGSs. In order to move in that direction, I suggested that the Commission direct a process at the end of this proceeding to examine alternative default service models. (ESC Statement No. 1 at 14).

Q. HAVE ANY WITNESSES IN THEIR REBUTTAL TESTIMONY DISAGREED WITH THIS RECOMMENDATION?

A. Yes. Mr. Geller has testified that removal of PECO from the DSP role would "disrupt the critical safety net that default service was intended to provide – allowing all those who choose not to shop in the competitive market to continue to obtain stable, regulated electric service at the least cost over time." (CAUSE-PA St. 1-R at 5). In addition, Mr. Fisher described the Coalition's proposal would "abandon the underlying prudent mix of default service supply products that has been established and tested over multiple default service plans to provide price stability and other benefits for mass market customers." (PECO St. No. 4-R at 42). Mr. Estomin and Mr. Bertocci offered similar testimony opposing the Coalition's proposal. (OCA St No. 1R at 2-3; TURN St. No. 1-R at 1-3).

Q. HOW DO YOU RESPOND?

A. What the other parties are overlooking is that the Coalition is not proposing that default service be provided without any parameters or protocols. The Coalition submits that competition among suppliers to provide default service to non-shopping customers is the most effective way to ensure that the price most accurately reflects the market and the best price that is available. In my Direct Testimony, I proposed that the Commission establish a process so that it can indeed develop the rules that would be applicable to alternative default service models and providers. I note that a lengthy timeframe should not be needed now when the Commission has already devoted substantial resources to examining these issues and can readily pick up where it left off at that time.

IV. TIME-OF-USE ("TOU") RATES

Q. WHAT WAS YOUR TESTIMONY CONCERNING PECO'S PROPOSED TIME-OF-USE ("TOU") RATES?

I observed that PECO's smart-meter roll-out was an important and overdue development and noted that one of the often-promised benefits of smart meters is their ability to create an enhanced retail experience, including time-varying rates that better reflect the cost of energy at wholesale and the opportunity for demand to participate in response to a more dynamic price signal. (ESC St. No. 1 at 15-16). For that reason, I opined that as the Commission considers an innovative product like TOU, it must think in tandem about the competitive structure of the market that should serve a marketplace whose customers want and need differentiated products. My specific suggestion was that as the Commission allows PECO as a DSP to offer any TOU product, it must remove the barriers that prevent EGSs from issuing supplier-consolidated bills to customers. (ESC St. No. 1 at 17-20). I also recommended that PECO should offer the TOU rate as the default rate and allow customers to opt-out to real-time pricing or to an EGS product. ESC St. No. 1 at 21). Further, regardless of whether the DSP's TOU rate is opt-in or opt-out, I stressed that the Commission should first ensure a level playing field for time-varying rate products offered by the DSP and EGSs in order to ensure that harms I have identified above are minimized. (ESC St. No. 1 at 21).

Q. DID YOU ALSO EXPRESS CONCERNS ABOUT PECO'S PROPOSAL?

A. Yes. I expressed concerns about PECO's proposed timeline, as being too short, and budget, as being too small, and about the relatively few details that PECO provided about the program. I also suggested that to the extent capital investments are proposed for the DSP program, they should be funded throughout the life of the DSP period. In addition, I noted that real-time price service should also be made available to residential and small commercial customers. Finally, I stated that PECO should make a filing with the Commission on its TOU plan annually. (ESC St. No. 1 at 21-24).

Q. WHAT SPECIFIC MODIFICATIONS DID YOU RECOMMEND?

A. Specific modifications I recommended included: : 1) adoption of supplier consolidated billing in conjunction with TOU implementation and approval of the TOU as the standard default rate; 2) requiring a more robust customer education campaign on a realistic timeframe; 3) requiring PECO to offer a real-time price plan to residential and small commercial customers; 4) requiring the appropriate allocation of TOU-related costs to DSP customers; and 5) requiring PECO to include in its tariff the annual reports contemplated by law. (ESC St. No. 1 at 25-26).

Q. YOU OBSERVED IN DIRECT TESTIMONY THAT THE CURRENT SPACE ON A PECO BILL THAT AN EGS MAY USE IS NOT SUFFICIENT TO REPRESENT MORE COMPLEX PRODUCTS, LIKE TOU RATE OFFERINGS. DOES PECO OR ANY INTERVENOR CHALLENGE THAT ASSERTION?

A. They do not. They oppose the implementation of supplier consolidated billing, while at the same time appearing to concede that EGSs would not have an equal opportunity to market these products to customers.

Q. WHAT DO INTERVENORS SUGGEST AN EGS MAY DO, IN LIEU OF BEING ABLE TO SEND A BILL TO CUSTOMERS?

A. The consumer advocates and PECO in this proceeding suggest that my arguments for a level playing field are misplaced, because EGSs may already use dual billing to bill consumers separately for generation charges—leaving a customer to pay both that bill, and also the bill that PECO would send her for distribution charges. (PECO St. 1-R at 16; OCA St. 1-R at 6; CAUSE-PA St. 1-R at 8). To say the least, this is a puzzling position for a consumer advocate to take. In my experience as a consumer, I seek to reduce the number of separate monthly bills I am obligated to pay. I doubt many consumers would be eager to pay two bills, rather than one, for the electricity service they receive. Regardless, these suggestions do not solve for the policy harm that I identified in my direct testimony—an uneven playing field in the absence of supplier-consolidated billing whose unevenness widens further when products like TOU are introduced.

Q. DO OTHER PARTIES HAVE OTHER ADVICE FOR HOW AN EGS MIGHT OFFER TOU SERVICE ON AN EVEN PLAYING FIELD WITHOUT THE OPPORTUNITY TO SEND A SINGLE, CONSOLIDATED BILL TO CONSUMERS TO GRAPHICALLY REPRESENT THAT SERVICE?

A. Mr. Estomin suggests that “EGSs also have available direct mail, email, telephone messaging, and text messaging options.” (OCA St. No. 1 at 6.) Mr. Estomin suggests also that an EGS might develop an app for this purpose. *Id.* I welcome his suggestions, but make two observations. First, these suggestions still fall short of the ability to send the official and authoritative communication to one’s customer that is the monthly bill for service, whether in paper or digital form. Second, to the degree Mr. Estomin suggests a range of other possibilities for EGSs to interact directly with their generation customers, it would seem to set up a market that will only cause an even greater variety of “customer confusion” that other consumer advocates, such as Mr. Bertocci, say that supplier-consolidated billing would risk. (TURN St. No. 1 at 8.) That is because customers would continue receiving an official communication about their EGS TOU charges from PECO—in what little space that the message would be scaled to—while receiving a different message in both style and substance from the EGS using one or more other mediums.

Q. MR. KALCIC, TESTIFYING FOR THE OFFICE OF SMALL BUSINESS ADVOCATE, SUGGESTS THAT EGSS HAVE HAD AN EIGHT-YEAR LEAD

TIME TO IMPLEMENT TOU AND STILL HAVE NOT, MAKING YOUR SCB ARGUMENT OPPORTUNISTIC. (OSBA ST. NO. 1-R AT 4). HOW DO YOU RESPOND?

This is a chicken-and-egg problem. The lack of SCB makes offering TOU in an effective manner difficult. This stands in contrast to the Texas competitive retail market, where as I earlier testified price-varying retail products are numerous and growing in scale. (ESC St. No. 1 at 17). The lack of EGS offerings like this in Pennsylvania is not for lack of interest in TOU. Indeed, NRG was the company that ran the TOU pricing pilot on behalf of PECO. In the future, I believe that TOU opportunities will be more significant, especially as a greater level of digitization permeates the devices interconnected on the customer side of the grid and supply shows a greater level of variability as renewables are added. On this point, I agree with the general trends that Karl R. Rabago has identified (Environmental Stakeholders St. No. 1 at 11-12). But the ability of EGSs to successfully offer a diverse array of products that are admittedly more complex—but also more valuable—depends on their ability to communicate those products' design and billing in a transparent and direct way with customers. That is why SCB is so important.

Q. DO PARTIES RAISE SUBSTANTIAL ARGUMENTS AGAINST THE ADOPTION OF SUPPLIER-CONSOLIDATED BILLING?

They do. PECO disagrees with the Coalition's proposal to implement SCB in conjunction with TOU rates, referring to recent Commission proceedings, in which the Commission has so far declined to move forward with implementation, citing concerns about legality, consumer protections and sufficient EGS interest. (PECO St. No. 2-R at 15). OCA highlighted consumer protection issues and likewise referred to recent Commission proceedings. (OCA St. No. 1R at 6-7). Similarly, the Rebuttal Testimony of CAUSE-PA and TURN raised many of the same issues as PECO and OCA, with both parties attaching their Comments and Reply Comments to the Rebuttal Testimony. (CAUSE-PA St. 1-R at 8-9; TURN St. 1-R at 8). OSBA also suggests that because SCB is currently under investigation by the Commission, it is outside the scope of PECO's proposed default service plan. (OSBA St. 1-R at 5).

Q. HOW DO YOU RESPOND?

A. NRG joined with four other EGSs to form a coalition to present supplier perspectives in the SCB proceeding. That coalition comprehensively addressed every point that the utilities and consumer advocates raised, by (i) fully explaining the Commission's legal authority to implement SCB; (ii) urging the Commission to implement SCB in a manner that ensures the continuation of all consumer protections; and (iii) firmly expressing, not only their commitment to use SCB when it is implemented, but conveying to the Commission the importance of this tool to the continued growth of Pennsylvania's competitive retail market. The comments and reply comments of the coalition advocating for the implementation of SCB are likewise incorporated herein and may be accessed on the Commission's website.[3]

Q. HOW DO YOU RESPOND TO THE CLAIMS THAT THE SCB DOCKET, AND NOT THIS ONE, IS AN APPROPRIATE PLACE TO RESOLVE ANY CONCERN?

A. The SCB proceeding at which these comments and reply comments were filed was launched over two years ago. Parties are not required to forego raising issues that are pending in a generic proceeding at the Commission, particularly when a utility-specific proposal is under review that necessitates a consideration of such issues. Since PECO has taken this opportunity to propose a TOU rate—one that EGSs could not implement

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[3] EGS SCB Coalition Comments: http://www.puc.state.pa.us/pcdocs/1565417.pdf; EGS SCB Coalition Reply Comments: http://www.puc.state.pa.us/pcdocs/1583056.pdf.

on an equivalent basis—it is important that SCB be addressed in tandem to remedy that inequity. It matters less where procedurally the particulars of policy choices within SCB are housed, than it does that the Commission here announce that before more complex TOU rates are offered by PECO that those EGSs who do business within the PECO service territory will have an equivalent opportunity to offer those more complex rates with SCB.

PECO already has stated that the TOU rate will be available in approximately a year following Commission approval. I believe it could take longer, either by necessity or, per my recommendation, by suspending TOU implementation until SCB is ready to go-live. As was made clear during the SCB proceeding, its successful implementation will entail a resolution of certain issues, such as the development of protocols for ensuring the continuation of existing consumer protections by clearly defining the rights and obligations of electric distribution companies and EGSs, the establishment of the necessary electronic data interchange transactions and the creation of a process that requires EGSs to show that they are technically and financially able to perform SCB.

Q. WHY IS MAKING TOU RATES 'OPT-OUT' AS OPPOSED TO 'OPT-IN' IMPORTANT?

A. It seems to me that most parties are simply going through the motions on the TOU issue in this proceeding, knowing that PECO is under a legal obligation to offer it—but not taking seriously TOU's prospects or even actively seeking to minimize them. PECO has suggested that there will be very little uptake of the service. (ESC St. No. 1 at 16; Exhibit TK-6 (Response to ESC-IV-9). Yet, the Pennsylvania legislature clearly had in mind customer-facing rate designs that took advantage of smart meters when it authorized significant amounts of spending on them. If one accepts that there is some level of inertia associated with the way things always have been, the right approach to fulfilling the Pennsylvania legislature's policy ambitions on smart meters is to apply the age-old advice of "try it, you might like it" to TOU. In addition, no party in this proceeding has seriously disputed that the TOU rates better reflect the economics of power supply than a single, undifferentiated, round-the-clock price; shouldn't the more market-reflective rate be the default?

Q. WHY DO PARTIES OBJECT TO AN 'OPT-OUT' TOU RATE AS THE DEFAULT RATE?

A. PECO, OCA, and OSBA all refer to the statute that suggests customers "may elect" TOU, which they argue impliedly means it cannot be an opt-out construct, but one that customers must opt into. (PECO St. No. 2-R at 14; OCA St. No. 2R at 4; OSBA St. No. 1-R at 3).

Q. DO YOU DISAGREE?

A. I do. Counsel will address the legal argument in briefs that the parties are raising. In summary, however, this statute does not pose a bar to my policy recommendation, and the parties' witnesses are relying on a misinterpretation of it. Moreover, if the statute were interpreted as PECO, OCA and OSBA advocate, it would pose a substantial barrier to reform of rate design for default service in the future. I doubt this can be what the legislature intended.

Q. WHAT KIND OF BARRIERS WOULD THE PECO/OCA/OSBA INTERPRETATION POSE?

A. A TOU rate is defined by law as any that "reflects the costs of serving customers during different time periods, including off-peak and on-peak periods."[4] That definition

[4] 66 Pa. C.S. § 2806.1(m).

encompasses a wide universe of possible rate designs—ranging from “critical peak pricing” rates that incentivize lower usage during the highest-demand hours of the year to electric-vehicle charging rates that discount nighttime charging. The parties are essentially arguing that the legislature, without even directly referring to default service rate design, created a requirement that default rates for residential and commercial customers can only be fixed-rate, round-the-clock prices. This strikes me as a very indirect route to have codified that intention, were it the legislature’s intent to do so.

Q. ARE THERE OTHER IMPLICATIONS OF THE STATUTORY PROVISION TO WHICH PECO/OCA/OSBA CITE?

A. Yes. As I observe in my direct testimony, PECO is obligated to offer a real-time price plan so that certain customers may “elect” it. It has not done so here.

Q. DOES PECO RESPOND TO YOUR CONTENTION?

A. Yes. Mr. Bisti argues, “With the combination of PECO’s proposed TOU Rates and the hourly-priced default service rate for the Consolidated Large Commercial and Industrial Class, a TOU or real-time pricing program will be available to all of the Company’s default service customers with smart meters.” PECO St. No. 2-R at 14. Mr. Bisti is apparently suggesting that because C&I customers have real-time pricing plans and, assuming PECO’s proposal for TOU for residential and small commercial customers is approved in this proceeding, that all customers will have one or the other option—in compliance with his view of the law.

Q. WHAT IS WRONG WITH MR. BISTI’S CONTENTION?

A. 66 Pa. C.S. § 2807(f)(5) states, “*Residential or commercial customers* may elect to participate in time-of-use rates *or* real-time pricing.” (emphasis added). Those customers may not elect time-or-use rate or real-time pricing if one of those two things is not available to them. Consequently, it does not seem relevant if *some* customers have access to real-time pricing if the classes identified in the statute do not.

Q. ARE THERE IMPLICATIONS OF THIS STATUTORY PROVISION AS IT RELATES TO THE AVAILABILITY OF TOU RATES TO CAP CUSTOMERS?

A. Yes. As I explain in my direct testimony, the law itself defines the customers to whom these services must be offered—specifically, customers with smart meter technology. It does not provide for additional limitations, and by specifying the customers that are eligible, it forecloses the Commission's opportunity to put TOU (or for that matter real-time pricing) off-limits to certain customers on the basis of administrative decision making. I am somewhat sympathetic to those that argue that the CAP program is in some respects incompatible with the TOU rate design PECO has proposed, although in general I think certain parties are being too paternalistic about the ability and willingness of low-income consumers to save money through TOU. Regardless, the statute answers this question for me, for PECO, for other parties, and for the Commission.

Q. WHAT MIGHT THE COMMISSION DO TO AMELIORATE CONCERNS ON THIS POINT?

A. The Commission can approve with modifications the PECO proposal, so long as that decision otherwise coheres to the law. In my view, the Commission should require a longer lead time and a greater budget for customer education to ensure the harms that some advocates identify do not occur. The additional time could accommodate the implementation of SCB on a parallel track, the required implementation of a real-time pricing option, and could be used to ease concerns that parties have expressed about TOU—without falling back to the easy but wrong remedy of simply foreclosing a TOU program to an ever larger number of customers.

Q. FINALLY, YOU PROPOSE IN YOUR DIRECT TESTIMONY THAT TOU IMPLEMENTATION COSTS SHOULD BE SPREAD OVER THE DURATION OF THE DSP, AND THAT LONG-LIVED INVESTMENTS SHOULD PROPERLY BE CAPITALIZED. WHAT IS MR. BISTI'S RESPONSE?

A. He suggests that PECO will "recover TOU-related implementation costs," including capital expenditures, as an operating expense. (PECO St. No. 2-R at 22.) Meanwhile, he agrees with me that the recovery should be "over the DSP V term." *Id*. That is a satisfactory outcome.

V. TEN-YEAR CONTRACTS FOR SOLAR ALTERNATIVE ENERGY CREDITS

Q. WHAT DID YOU SAY ABOUT PECO'S PROPOSAL TO COMPLY WITH PENNSYLVANIA'S ALTERNATIVE ENERGY PORTFOLIO STANDARDS ("AEPS") ACT?

A. Through my Direct Testimony, the Coalition opposed PECO's proposal to enter into 10-year contracts. The presence of these long-term contracts will impede the ability of the Commission to remove PECO as the default service provider and approve an alternative default service provider—a barrier that would be present for 10 years. Moreover, the use of long-term contracts by PECO places PECO's captive ratepayers at risk because they will be required to pay for the costs of contracts that may end up being uneconomic over their life. Finally, when default service providers are permitted to use the threatened lack of solar development as a reason for them to enter the market with a supply agreement to "correct" it, the willingness and ability of EGSs to undertake these projects (relying on private investment) is hampered. (ESC St. No. 1 at 26-31).

Q. WHAT WAS YOUR RECOMMENDATION?

A. PECO should require wholesale default service suppliers to deliver the full amount of PECO's AEPS requirements and not pursue the proposed 10-year SAEC contract.

Alternatively, the 10-year SAEC proposal should be reduced to match the DSP four-year plan period. (ESC St. No. 1 at 27).

Q. SPECIFICALLY, WHAT DO YOU PROPOSE?

A. The simplest approach to this issue is to require the DSP's wholesalers incorporate their estimated cost of AEC/SAEC procurement into the bids they make as part of their tranched offers. This is what happens already with the vast majority of AEC procurements, and PECO gives no particular reason why, in effect, a portion of a subset of its AEC requirement—25% of its SAEC procurement requirement—should be procured in this way, unlike the manner in which it procures essentially everything else. This more standard approach would have the salutary effect of retaining a level playing field. (ESC St. No. 1 at 29-30).

Q. WHAT PARTIES OPPOSED YOUR SOLAR RECOMMENDATIONS AND WHY?

A. PECO opposed my recommendation on the basis that the amount of solar AECs PECO is seeking to procure is small, and that there no real impact to EGS investment of PECO's proposal. (PECO St. No. 1-R at 14-15). OCA also opposed my recommendation, claiming as well that PECO's proposal has no impact on EGS investment, that any existing contract could be transferred to a new Default Service Program and that the long-term solar AEC contracts operate as a hedge against large price increases and not necessarily a means to secure the lowest possible price at any time. (OCA St. No. 1R at 9-11).

Q. PLEASE EXPLAIN YOUR VIEW OF HOW PECO'S LONG-TERM CONTRACTING WITH SOLAR AFFECTS EGS WILLINGNESS TO DO THE SAME.

A. PECO has an ability through the law to obtain a full and current recovery of whatever it spends. EGSs do not. Consequently, it does not matter to PECO whether or not there is a particular customer (or a diminishing or growing set of customers) for the contracts for SAECs (or any other product) that the DSP enters into. There will always be a backstop due to the law's guarantee of rate recovery. EGSs do not have that ability. Instead, when they sign a contract for (or build themselves) a solar project or other agreement for a power supply resource, they expose their shareholders to significant risk that their bet will be wrong—unless they can cover that supply position with an offsetting position to resell those SAECs (or other product) to a customer. In the Pennsylvania retail market, there are large customers, like the City of Philadelphia, that have proven willing to enter into longer-term deals.

That market is not present for residential and small-commercial customers. Mass-market customers do not sign long-term contracts even in the highly competitive Texas retail environment, where products tend to be limited to 36 months at most.[5] To be sure, the Texas equivalent of EGS are indeed making longer-termed investments than that in the Texas market. Those, however, are predicated on the view that the other EGSs face the same exposure to risk of entering (or not entering) into such supply deals as the contracting EGS. In other words, there is no default retailer that automatically recovers the costs of improvident investments from a set of customers regardless of what happens.

[5] Based on a search of the www.powertochoose.org website on July 19, 2020.

This level playing field results in an EGS willingness to enter into deals because a level playing field for longer-term investment in generation exists.

In short, OCA and PECO express a view that suggests that whatever PECO may do to invest in renewables will not have an impact on EGSs' ability to invest in renewables. (OCA St. No. 1R at 11; PECO St. No. 1-R at 15). That simply is not the case in a market where long-term retail contracts are not present—which in Pennsylvania's residential and small-commercial mass market they are not, including for the additional reason not present in Texas that retailers would not be able to pass through any price excursions for certain costs, such as transmission, to customers through such a contract.[6] The reality is that a dominant firm's investment in the market will naturally crowd out other participants. When this is paired with the special ability that dominant firm enjoys to get cost recovery regardless of the economic outcome of its bets, that ultimately can have a significant impact of a competitive marketplace to work. This is the message of the Wind Solar Alliance report I relied upon in my direct testimony; its message is a prescient one, and I hope the Commission will heed it.

Q. DO YOU HAVE OTHER RESPONSES TO PECO AND OCA'S CRITICISMS OF YOUR POSITION?

A. Yes. I do not agree with OCA that a long-term contract could simply be transferred or assigned to an alternative default service provider if PECO ceases to function in that role after DSP V. Rather, I would expect that parties would argue the existence of the contract as a reason not to transfer the default service role. In addition, saddling a new

[6] *Guidelines for Use of Fixed Price Labels for Products With a Pass-Through Clause*, Docket No. M-2013-2362961 (Order entered November 14, 2013) ("Fixed Means Fixed Order").

default service provider with the contract may impact the default service product the alternate default service provider could bring to the market.

Meanwhile, PECO's witness Mr. McCawley suggests that I have misunderstood the meaning of one of the Commission's jurisprudence associated with a prudent mix of short- and long-term resources by distinguishing AECs from commodities like energy. (PECO St. No. 1-R at 14, fn 14.) Mr. McCawley does not address the heart of my criticism, where I note that nothing in the Commission's regulations entails a supply mix for SAECs that includes long-term procurements, which makes this conversation different from a discussion of energy. (ESC St. No. 1 at 28, fn 72.) Indeed, there are valid policy reasons why it should not, as I describe above: While the marketplace for energy is relatively well established, the market for SAECs and other renewables remains in a fledgling state in Pennsylvania and if EGSs come to believe they will be crowded out by a DSP that has guaranteed cost recovery, they will be reluctant to invest risk capital.[7]

Finally, Mr. McCawley has suggested I incorrectly testified that the price offered by PECO to sellers of SAECs in a second-round procurement would be based on the average cost of solar in Pennsylvania, instead of the average of the winning bids of the first round. I believe I did, in fact, understand what PECO is proposing, and my criticism of it from my direct testimony still holds, unrebutted: "Indeed, in the SOTP proposal PECO makes, it suggests it bid the average successful offer price from the RFP phase of the procurement to those who have SAECs available to sell it. In other words, it is content to get the average of better prices—and not the best price. This is not consistent

[7] Here I note that Mr. McCawley, while proposing a relatively small procurement for PECO, is defending his position against environmental intervenors through Mr. Rabago who are arguing for an outcome that would swallow large parts of what could be a competitive market.

with how a normal, properly incentivized buyer would conduct solar procurements, in my view." ESC St. No. 1 at 29.

VI. RECOVERY OF NETWORK INTEGRATION TRANSMISSION COSTS

Q. WHAT RECOMMENDATION DID YOU OFFER REGARDING NETWORK INTEGRATION TRANSMISSION SERVICES ("NITS") CHARGES?

A. I recommended that the Commission direct PECO to include the recovery of NITS via its currently existing Non-Bypassable Transmission ("NBT") rather than continuing the status quo whereby PECO recovers the costs of NITS for default service customers only. (ESC St. No. 1 at 33).

Q. WHAT PARTIES OPPOSE YOUR RECOMMENDATION?

A. My recommendation is opposed by PECO (PECO St. No. 1-R at 26-19), PAIEUG (PAIEUG St. No. 1) and Calpine (Calpine St. No. 1).

A. Response to PECO

Q. AS A THRESHOLD MATTER, DOES PECO AGREE THERE IS AN ISSUE WITH ITS CURRENT COST RECOVERY MECHANISM FOR NITS?

A. No. Before addressing the merits of my proposal, Mr. McCawley first attempts to cite to prior Commission orders and the Commission Staff's stalled Informal Investigation as support for the status quo. (PECO St. No. 1-R at 16-17, and 19).

Q. DO YOU AGREE THAT EITHER OF THESE ARE A REASON TO NOT PURSUE THIS ISSUE HERE?

A. No. As I stated in my Direct Testimony, I was advised by counsel about the Commission's prior rejection of similar proposals but explained why circumstances have changed since then to merit a reevaluation of this issue. (ESC St. No. 1 35). Regarding the Informal Investigation, Mr. McCawley seems to be taking the view that the Informal Investigation is the better place to address this issue. (PECO St. No. 1-R at 19). While the Coalition would welcome a serious statewide review of this issue, as explained in my Direct Testimony, the Commission's Informal Investigation of this issue (which began in 2015) does not appear to be a current, on-going effort focused on reaching a timely resolution. (ESC St. No. 1 at 32-33). Moreover, the fact that PECO was unable to produce any of the information provided to the Commission Staff as part of that Informal Investigation tends to support the view that relying on the Informal Investigation to seriously address and resolve this issue is not reasonable.

Q. DOES PECO AGREE THAT NITS PRESENT A PROBLEM OR THAT CIRCUMSTANCES HAVE CHANGED TO WARRANT A REVIEW OF THE STATUS QUO?

A. No, while Mr. McCawley acknowledges the change to "formula rate" approach, he argues that I did "not demonstrate that annual rate changes are in fact a significant burden for EGSs" and claims that I support the "socialization" to all customers based on the unpredictability of the level of NITS rate changes. (PECO St. No. 1-R at 17).

Q. HAS MR. MCCAWLEY FAIRLY CHARACTERIZED YOUR TESTIMONY?

A. No. Notably, he fails to address several key points about why the status quo needs to be revised. First, as explained in my Direct Testimony, PECO's recovery of the actual costs of NITS for default service customers is a significant competitive advantage over EGSs' recovery of "anticipated or forecasted" costs of NITS from their shopping customers. Apart from advantaging the historical monopoly provider, this current market structure subjects <u>shopping customers only</u> to risk premiums which may or may not reflect actual costs. (ESC St. No. 1 at 39). Second, I explained in my Direct Testimony – with examples – the difficulty of attempting to accurately forecast the NITS rate and how the final FERC approved rate may not be revealed with much lead time for EGSs to factor it into their pricing. (ESC St. No. 1 at 37-38). Notably, this is not a problem for PECO because it simply collects the price changes from default service customers (and is paid them as a transmission owner). Perhaps the fact that PECO is so differently positioned than any other EGS in the market is the reason why Mr. McCawley fails to see the burden of the status quo on EGSs. The table below, taken from my Direct Testimony, shows how these changes can either be substantial—or not. As can be seen, one rate stayed the same year-on-year and another increased by almost 30 percent. In any case, these changes under formula rates are more sudden and more frequent, which together with the potential for volatility result in the issue I pose in my direct testimony. (ESC St. No. 1 at 38).

NITS Rates	Current NITS Rate	Current NITS Rate Effective Dates	Future NITS Rate	Future NITS Rate Effective Date
ATSI Zone	$55,074.34/MW/Year	Since January 1, 2019	$57,340.35/MW/Year	January 1, 2020
Allegheny Power Zone	$15,396.00/MW/Year	Since March 1, 2002	$15,396.00/MW/Year	March 1, 2002
MAIT Rates for ME & PN Zones	$28,796.22/MW/Year	Since January 1, 2019	$37,083.18/MW/Year	January 1, 2020

Q. SETTING ASIDE YOUR DISAGREEMENT WITH PECO ABOUT WHETHER OR NOT A PROBLEM EXISTS, DOES PECO IDENTIFY TRANSITION PROBLEMS WITH YOUR RECOMMENDED APPROACH?

A. Yes. Mr. McCawley claims that transitioning the recovery of NITS to the NBT could lead to what he calls the “double-charge” problem and the “unbundling” problem. Basically, he argues that shopping customers’ existing contracts already factor in a cost for NITS and shifting the cost recovery to all distribution customers will result in them paying for NITS twice. Relatedly (his “unbundling” issues), he claims EGSs have structured their contracts to factor in the cost of NITS and attempting to identify a cost for that component and then removing it “could require additional negotiation. (ESC St. No. 1 at 17-18).

Q. IS THE IMPACT OF A TRANSITION TO YOUR PROPOSED NITS RECOVERY ON EXISTING SHOPPING CUSTOMERS' CONTRACTS AN INSURMOUNTABLE BARRIER?

A. No, it is not. We would not be opposed to any reasonable transition mechanism that would address concerns related to existing contracts with shopping customers or to the mechanics of how to transition to my recommended cost recovery approach. Just as PECO did when it first created the NBT, the change in cost responsibility can be limited to only new charges associated with NITS occurring after the Commission's final order in this proceeding. By limiting the change in cost responsibility to new charges, there is no concern over "double recovery" for customers' existing EGS contracts. Alternatively, the change in cost responsibility could be deferred to a later date, such as June 2022, to provide a transition period during which many EGS contracts would expire and renew. The new renewal rates offered would reflect removal of the cost obligations from EGSs and address concerns over potential "double recovery." In sum, there are a variety of transition mechanisms that can be considered.

B. <u>Response to PAIEUG</u>

Q. WHAT CONCERNS DOES PAIEUG RAISE REGARDING YOUR PROPOSED CHANGE TO NITS COST RECOVERY?

A. Like Mr. McCawley, Mr. Pollock attempts to explain why the current cost recovery mechanism is not problematic for EGSs and how the shift could have the impact of recovering NITS charges twice. In addition, Mr. Pollock argues that the shift in cost recovery would "sever the link between cost recovery and cost causation." (PAIEUG St. No. 1 at 4).

Q. DO YOU AGREE WITH MR. POLLOCK'S ARGUMENTS ABOUT WHY THE CURRENT COST RECOVERY MECHANISM FOR NITS SHOULD NOT BE PROBLEMATIC FOR EGSS?

A. No. Mr. Pollock appears to be focused on the fact that the date NITS rates will become effective is known. (PAIEUG St. No. 1 at 6). However, knowing when something is going to change but not by how much is not particularly useful. Mr. Pollock also identifies the factors involved in determining the change and notes that this information is "typically found in an EDC's FERC Form 1." (PAIEUG St. No. 1 at 7). These filings, however, are made on a lagging basis—while formula rates are made on a forward basis. As I observe in my direct testimony, these rates are subject to particular volatility associated with forecasts of the roll-in to rates of large capital projects. FERC Form 1 does not contain this forward-looking information. Mr. Pollock is attempting to create the impression that EGSs have easy access to the future NITS rates, which is not the case. This is not the accurate as I detailed at length in my Direct Testimony. (ESC St. No. 1 at 36-38).

Mr. Pollock also refers to the Texas market with the broad statement that "this [NITS cost recovery structure] has not prevented competitive suppliers from active participation." (PAIEUG St. No. 1 at 8). Yet one important aspect of the Texas competitive retail market is that it allows retailers to enter into contracts with customers that include adjustment clauses for transmission expenses. The Pennsylvania market does not.[8] His argument therefore stands as a reason to adopt the proposal I have made.

[8] *See* Fixed Means Fixed Order.

Q. DO YOU AGREE WITH MR. POLLOCK'S VIEW THAT SHIFTING THE COST RECOVERY MECHANISM FOR NITS WOULD "SEVER THE LINK BETWEEN COST RECOVERY AND COST CAUSATION?"

A. No. Mr. Pollock's argument focuses on how LSEs are billed NITS, i.e. on the basis of a customer's contribution in the zonal peak hour load and claims that PECO's available cost recovery charge mechanisms (the TSC and the NBT) does not align with how LSEs are billed by PJM. (PAIEUG St. No. 1 at 4-5). I am not aware of any legal requirement that the assessment of wholesale FERC approved charges billed by PJM to LSEs is required to directly match the recovery of the LSEs from their customers.

Q. DOES MR. POLLOCK'S REBUTTAL TESTIMONY HIGHLIGHT ANY OTHER POINTS YOU WOULD LIKE TO ADDRESS?

A. Yes, Mr. Pollock correctly recognizes that EGSs have to rely on risk premiums given the requirement for them to forecast future NITS rates and, according to him, the EGS is "wearing the risk." (PAIEUG St. No. 1). The issue here is a lack of a level playing field. PECO as a DSP does not have to "wear the risk"—even though, ironically, it is the same company that is responsible for driving the fluctuations of NITS in what it projects to spend in capital and operating costs for its transmission system. It is perverse that PECO would be able to socialize the risk of its own decision making as it relates to the pricing of default service, even while EGSs are expected to bear that risk.

C. <u>Response to Calpine</u>

Q. WHY DOES CALPINE OPPOSE YOUR PROPOSAL TO SHIFT THE CURRENT COST RECOVERY MECHANISM FOR NITS?

A. Ms. Merola characterizes our proposal as an effort "to shed and shift market risk" that would "simultaneously limit existing and potential customers' product and service choices." (Calpine St. No. 1 at 3-4).

Q. DO YOU AGREE WITH THIS ASSESSMENT?

A. In part. I agree that in an ideal world, all market risk would be reflected in all price offers to consumers, including the estimation of likely transmission prices over the term of the offered contract. And yet that is not the world in which we live, because PECO—notably, unlike the situation in FirstEnergy—socializes the risk to non-shopping customers for whatever transmission costs end up being, even while not establishing EGSs on a level playing field.

VII. RECOVERY OF DEFAULT SERVICE COSTS

Q. WHAT POSITION DID YOU SET FORTH IN YOUR DIRECT TESTIMONY CONCERNING THE RECOVERY OF DEFAULT SERVICE COSTS?

A. I expressed the view that it is critical that the price to compare ("PTC") that is established through this default service proceeding actually reflect the costs that PECO is incurring to provide default service. Yet, as I explained, PECO today is recovering no overhead costs that it incurs as a company to provide default service as a DSP through the PTC for default service. Additionally, PECO proposes to continue recovering all indirect costs that it incurs to operate both its distribution and default service businesses through distribution rates. (ESC St. No. 1 at 41-43).

Q. WHAT DID YOU RECOMMEND TO RECTIFY THIS PROBLEM?

A. I recommended rectifying this problem by the Commission requiring PECO to allocate a portion of its overhead costs to default service and recover them through the PTC. Absent such allocation, I explained that not only is PECO overlooking the express terms of the Commission's policy statement and regulations. I have demonstrated through my direct testimony that PECO employees are indeed spending time administering and implementing DSP, the cost of which are not allocated to DSP. But because PECO does not track the time and resources its employees spend on administering and implementing PECO, PECO has deprived itself and other parties the opportunity to make a direct assignment of costs. Instead, those costs will have to be allocated through a less direct methodology. ESC St. No. 1 at 44-48).

Q. HOW DID YOU RECOMMEND THAT THIS ALLOCATION OCCUR?

A. To address the problem with default service pricing that I have identified, I recommended that the Commission require PECO to modify its proposed allocation and rate design for default service to recover a reasonable or appropriate portion of its overhead costs through the PTC. I further testified that upon the filing by PECO of a modified allocation and rate design, the Commission should afford all interested parties an opportunity to comment and/or present evidence showing the deficiencies of PECO's proposal. (ESC St. No. 1 at 51-53).

Q. DOES PECO RESPOND TO THE EVIDENCE THAT ITS EMPLOYEES ARE SPENDING TIME AND RESOURCES ON DSP, WHICH ARE NOT BEING ALLOCATED TO THE PRICE OF THAT SERVICE?

A. To some degree. In its entirety, the question-and-response posed to Mr. Bisti on the issue of PECO employees' time spend working on DSP reads as follows: Q. Mr. Kavulla argues that PECO is improperly omitting certain A&G expenses from its PTC, *such as those associated with PECO employees and executives* that may spend time on issues related to default service. Do you agree? A. No. The Company's allocation of A&G expenses is appropriate and consistent with prior allocations that have been approved by the Commission. *When A&G expenses are incurred to fulfill the Company's default service obligations, such as costs for the independent evaluator and internal consultants, those costs are included in the PTC*." (PECO St. No. 2 at 9. Emphasis added).

In his answer, Mr. Bisti overlooks the relevant part of my contention, and indeed the way the question in PECO's own testimony is phrased. The issue is how PECO allocates to DSP the cost of its employees' time and resources spent working on DSP issues; Mr. Bisti simply talks past the issue, asserting that when third parties are hired for DSP, those costs are allocated to DSP. That is not the issue here. The issue is that PECO employees are spending time administering and implementing DSP, and yet the cost of that time is not allocated to DSP. That is inappropriate.

Q. BUT HOW DO WE KNOW THAT PECO EMPLOYEES ARE SPENDING THEIR TIME ON DSP?

A. To name but one highly obvious example, Mr. Bisti is literally spending his time and his company's resources preparing testimony in support of PECO's DSP plan. This, I think, is an incontrovertible fact. I identify a number of PECO employees on pages 42-43 of my direct testimony who are spending time administering and/or implementing DSP. Mr. Bisti does not rebut the evidence that they are spending time on DSP. Yet, nevertheless, he is not proposing to allocate the cost of that time to the price to compare of PECO's DSP.

Q. SO HOW DOES MR. BISTI ATTEMPT TO JUSTIFY HIS POSITION TO ALLOCATE NO COSTS ASSOCIATED WITH PECO EMPLOYEES TO DSP DESPITE THE FACT THAT PECO EMPLOYEES WORK ON DSP?

A. Mr. Bisti argues that "PECO's default service obligations are part of its duties as an EDC" and since "PECO has an obligation to provide default supply to all distribution customers who do not take generation service from an EGS," the time PECO employees spend on DSP "support the Company's distribution customers generally (shopping and non-shopping)" and are thus properly allocated to all distribution customers. PECO St. No. 2 at 6. Yet, Mr. Bisti also offers in the same breath: "If a cost is incurred as a result of fulfilling the Company's default service obligations, PECO allocates the cost to default service." *Id.*

Q. WHAT DO YOU MAKE OF MR. BISTI'S ARGUMENT?

A. It is internally contradictory. He appears to be suggesting that because DSP is part of the EDC business, it benefits all distribution customers—and thus costs associated with DSP should be allocated to distribution (both shopping and non-shopping) customers. And, yet, if that were the case, then it would not be appropriate to allocate the independent third party evaluator or other consultants working on DSP to the DSP price to compare; after all, the same logic that leads Mr. Bisti not to allocate PECO employees' time to DSP would apply to these costs as well.

In any case, Mr. Bisti's argument that EDC and DSP are not separate businesses is irrelevant. The Commission's policy statement includes categories of costs to allocate to DSP, as I observe in my direct testimony. The Commission's policy statement does not provide distinctions for whether it is a PECO employee or a third-party contractor doing work on DSP.

Q. HAS THE COMMISSION EVER EXPRESSED IN AN ORDER THE SAME RATIONALE THAT MR. BISTI ARGUES IN MAKING A FINDING ON ALLOCATION TO DEFAULT SERVICE?

A. No. The Commission has approved proposals in 2010 and 2015 that apparently contained no allocation of such costs to DSP, although the allocation was not challenged in these proceedings by any party. The Commission did not opine one way or another in their order. More recently, in PECO's 2018 case to establish EDC base rates, NRG raised objections to this allocation. In denying NRG's arguments, the Commission ruled, in an excerpt that Mr. Bisti quotes in support of his reasoning: "A theory that underlies NRG's proposal is that the categories of costs incorporated in alternative energy suppliers' charges to their customers should be the same as the categories of costs incorporated in PECO's PTC. However, rate design is governed by the principle of cost causation. The principle requires that the cost of supplying public utility services is allocated to those who cause the costs to be incurred."[9]

Notably, the Commission's expressed view is *different* than the rationale that Mr. Bisti offers. It does not foreclose adopting the position the ESC offers on this point, which is to allocate the cost of the time and resources PECO employees spend on DSP to the price to compare of DSP. Indeed, one cannot simultaneously adopt the view that third-party contractors' doing work on DSP and PECO employees' doing work on DSP should somehow be subject to different outcomes when the Commission's lens of "cost causation" is applied.

Q. YOU HAVE MENTIONED TIME *AND RESOURCES* THAT PECO EMPLOYEES SPEND ON DSP IN PROVIDING YOUR TESTIMONY HERE. WHAT DO YOU MEAN BY THE INCLUSION OF THE WORD 'RESOURCES'?

A. When PECO employees work on DSP issues, they are also inescapably relying on the systems that are in place to help them do that work, including office space, information technology, human resources, and management. These are costs that support PECO's business in its entirety—when employees spend time directly on DSP, there must be an accounting of the corporate infrastructure that supports those employees. If PECO did account for employees' time directly, that might be the basis for an allocation, but it does not. It simply asserts that an allocator of zero is appropriate. It is not, as the facts of this

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9 *See Pa. P.U.C. vs. PECO Energy Co.*, Docket No. R-2018-3000164 (Order entered Dec. 20, 2018) (the "*2018 Distribution Rate Order*"), quoted at PECO St. No. 2 at 5.

proceeding demonstrate that PECO employees do work directly on DSP (but simply do not account for their time when they do).

Q. DO ANY OTHER PARTIES RAISE ISSUES WITH YOUR PROPOSAL ON THE ALLOCATION OF COSTS TO DSP?

A. Yes. OCA echoes PECO, at abbreviated length. Mr. Estomin particularly emphasizes his view that my testimony relies on my view that DSP should be treated as a standalone service for the purpose of allocating costs to it. OCA St. No. 1 at 11-13. That is indeed my view of what constitutes a best practice of inter- and intracompany cost allocation. However, it is *not necessary* to agree with me on that perspective in order to make the kind of allocation I am proposing above—where the facts demonstrate PECO employees have worked, are working, and will continue to work on DSP's administration and implementation. As I note above, the application of principles of cost allocation, which both Mr. Bisti and Mr. Estomin cite to, will likewise trigger an allocation of these costs to DSP. As such, there should be an allocation of the time and resources they are spending on DSP.

Q. MR. BISTI SUGGESTS THAT YOU ARE 'UNABLE OR UNWILLING' TO PROPOSE AN ALLOCATION METHODOLOGY FOR THE COSTS YOU HAVE IDENTIFIED. HOW DO YOU RESPOND?

A. Mr. Bisti's proposition is unfair. PECO has adopted so simple and absolute a methodology that it is starkly wrong, and is now trying to shift its burden in the presence of facts that make PECO's methodology unapprovable. PECO should not get to float a paper airplane across the room and expect intervenors to come back with a jet. The Commission should use its power to approve, deny, or modify PECO's proposal in this proceeding, and require on compliance a proposal from PECO that complies with a ruling that finds PECO's initial proposal unreasonable for the reasons I have offered above.

The Coalition would welcome the opportunity to assist PECO in developing an allocation methodology so that indirect costs are fairly and correctly allocated to default service.

VIII. PECO'S EXISTING AND PROPOSED RETAIL MARKET ENHANCEMENT PROGRAMS

A. STANDARD OFFER PROGRAM

Q. DID YOU OFFER TESTIMONY ABOUT PECO'S PRPOOSAL TO CONTINUE THE STANDARD OFFER PROGRAM ("SOP") THAT WAS FIRST IMPLEMENTED AS PART OF PECO'S SECOND DEFAULT SERVICE PROGRAM?

A. Yes. Given the sharp decline in program referrals the past three years, I testified that measures should be considered to mature the SOP. (ESC St. No. 1 at 53-54).

Q. WHAT WERE YOUR SPECIFIC RECOMMENDATIONS FOR MODIFICATIONS?

A. The Coalition recommended that: (i) all new customers (who have not already made an affirmative choice of an EGS) be automatically enrolled in the SOP; (ii) PECO be required to allow SOP signups from its website; (iii) the script be modified; and (iv) PECO be required to revisit the situations in which the SOP is mentioned, particularly to default service customers who contact the call center, and to otherwise engage in periodic communications, such as quarterly when changes to the PTC occur, promoting SOP to all customers on default service. (ESC St. No. 1 at 54-58).

Q. WHICH WITNESSES ADDRESSED YOUR TESTIMONY IN THEIR REBUTTAL TESTIMONY?

A. The witnesses who addressed my Direct Testimony on the SOP are Carol Reilly (PECO St. No. 3-R), Harry Geller (CAUSE-PA St. 1-R), Barbara Alexander (OCA St. No. 2R), and Brian Kalcic (OSBA St. No. 1-R).

Q. DOES THE REBUTTAL TESTIMONY OF THESE WITNESSES CHANGE ANY OF THE VIEWS YOU EXPRESSED IN YOUR DIRECT TESTIMONY ABOUT PECO'S SOP PROPOSAL?

A. No.

Q. AS TO YOUR PROPOSAL FOR THE AUTOMATIC ENROLLMENT OF NEW CUSTOMERS ON SOP WHO HAVE NOT ALREADY MADE AN AFFIRMATIVE CHOICE, HOW DO WITNESSES FOR OTHER PARTIES RESPOND?

A. Ms. Reilly disagrees with this proposal due to the voluntary nature of the SOP. (PECO St. No. 3-R at 15). Ms. Alexander opposes this recommendation, contending that customers must give affirmative consent to enroll with an EGS. She claims that the ESC proposal would "eviscerate the concept of 'choice' and 'shopping' and enroll customers with an EGS without their consent," which she calls "slamming." (OCA St. No. 2R at 3-4). Similarly, Mr. Geller claims that automatically enrolling new customers in SOP would be tantamount to slamming. He also objects to the need for customer to remain active in order to ensure savings throughout the SOP. (CAUSE-PA St. 1-R at 11-12). Mr. Kalcic likewise disagrees with automatically enrolling new customers in SOP who have not affirmatively elected to take service from an EGS. Mr. Kalcic's concern is that SOP customers must monitor changes in PECO's PTC and, if necessary, switch back to default service in order to receive the lowest rate available. He states that no customer should be enrolled in PECO's SOP unless the customer elects to participate. (OSBA St. No. 1-R at 6-7).

Q. HOW DO YOU RESPOND TO THESE WITNESSES?

A. As I explained in my Direct Testimony, default service is intended to ensure that consumers continue to receive electricity even if they do not choose an EGS or in the event their EGS stops providing service. Despite this provider of "last" resort purpose for default service, it continues to have the connotation of being the provider of "first" resort service for customers who do nothing. Continuing to foster this connotation is inconsistent with promoting the development of a competitive retail market. (ESC St. No. 1 at 54-55). Also, it makes no sense why new customers, who have not already made an affirmative choice of an EGS, would not automatically receive the benefit of a 7 percent discount off PECO's PTC.

Q. WHAT ABOUT THE CLAIMS THAT AUTOMATIC ENROLLMENT IN THE SOP IS THE EQUIVALENT OF SLAMMING?

A. As to the witnesses who describe automatic enrollment in the SOP as "slamming," they appear to have overlooked the reality that when PECO enrolls a customer in default service who fails to choose an EGS, the concept is the same. The customer is not choosing PECO, but rather is simply opting to do nothing. Also, the idea that a customer may have to pay attention to the market, PTCs and SOP prices should not prevent the Commission from taking the important step of reducing reliance on default service. To the contrary, the best way for customers to become familiar with the competitive market is to actively engage and participate in it. In that way, they will find the products and services being offered by EGSs that best suit their individual needs.

Q. HOW DO WITNESSES FOR OTHER PARTIES RESPOND TO YOUR PROPOSAL FOR AN ONLINE ENROLLMENT PROCESS FOR SOP?

A. Ms. Reilly does not believe this proposal should be adopted. She indicates that PECO initially allowed customers to enroll in the SOP via telephone or the Company's website beginning in 2013, but in 2015, the Company implemented system changes to allow SOP suppliers the option to select the rate class of customer accounts they wish to enroll. However, PECO did not enable web-enrollment functionality to separate SOP enrollments by rate class because of the cost and the relatively low level of SOP enrollment through PECO's website from 2013 through March 2015, which was approximately 3% of total SOP enrollments. (PECO St. No. 3-R at 15-16). Ms. Alexander does not object to my suggestion for PECO's website to include an option to participate in the SOP, but noted that her agreement "depends on ensuring that all the required disclosures are presented prior to the customer's agreement to enroll with an EGS. (OCA St. No. 2R at 7).

Q. HOW DO YOU RESPOND?

A. As to Ms. Alexander's agreement with my suggestion being contingent upon required disclosures being presented during the online enrollment process, I note that it is not possible to do that because all EGSs have different disclosure statements. Rather, the Coalition suggests that the information that is made available during an online enrollment simply mirror the script that is used when the process occurs through a customer service representative. Regarding PECO's resistance to my recommendation, I do not see any persuasive reason offered by Reilly's testimony for not allowing online SOP enrollments. As PECO permits new customers to enroll for new service online, it makes sense that since SOP enrollment is one of the options available to the customer, it should likewise be available in that forum. While PECO's online SOP enrollments may have been relatively low during the early years of the program, customers are much more inclined today than even five years ago to conduct their business through online transactions. Also, customers may have more familiarity with the program now and be prompted to select it even without a call center representative making a pitch for it. Although Ms. Reilly makes a reference to "cost," she does not quantify the cost, and it is difficult to imagine that the cost of adding a box for a new customer to choose SOP would be so significant as to justify depriving customers of a tool that would allow them to electronically enroll for the SOP and save money.

Q. HOW DO THE PARTIES RESPOND TO YOUR PROPOSAL FOR SOP SCRIPT CHANGES?

A. My proposals on the script were twofold: 1) eliminate the PECO branding of the SOP; and 2) remove the term “potential” from savings since the customer would save 7% off the PTC in the first month of the contract. Ms. Reilly has no objection to the discontinuance of its brand name for the SOP. She testifies that PECO will select a new name for the SOP based on market research and customer feedback that does not utilize the PECO corporate name. (PECO St. No. 3-R at 15). However, Ms. Reilly objects to my suggestion to revise the phrase “potential savings opportunity” to eliminate the term “potential” because this language is intended to convey that the SOP discount does not guarantee savings over the life of the contract. (PECO St. No. 3-R at 13). Similarly, Ms. Alexander objects to changes to the scripts that would emphasize savings since the discount off the PTC is only guaranteed for one month. (OCA St. No. 2R at 4). For the same reasons, Mr. Geller, likewise opposes the ESC’s proposal to highlight the guaranteed savings in the first month of SOP. (CAUSE-PA St. 1-R at 13).

Q. PLEASE RESPOND.

A. The fact remains that in at least the first month of the SOP, the customer will save 7% off the PTC. That is not a potential for savings; that is real savings. I continue to believe that potential should be eliminated from the script, especially when the word “opportunity” continues to be used to describe the possibility of savings. I am, however, pleased to see that the SOP will no longer be branded as a PECO program.

Q. WHAT ARE THE VIEWS OF WITNESSES FOR OTHER PARTIES ON YOUR PROPOSAL TO EXPAND THE SCOPE OF CUSTOMER CALLS IN WHICH THE SOP MAY BE PRESENTED?

A. Ms. Reilly states that the ESC "provides no compelling justification" for this proposal. She further explains that PECO currently offers the SOP during all calls from new/moving customers, except for calls related to outages, emergencies, terminations and billing disputes, during which she indicates that such a presentation would be inappropriate. (PECO St. No. 3-R at 15-16). Ms. Alexander disagrees that billing dispute calls are a proper forum for promoting shopping with tan EGS, describing the calls as being typically complicated. (OCA St. No. 2R at 6). Mr. Geller objects to offering SOP in additional situations, such as when a customer calls in with a billing dispute. He suggests that these customers are often in a high-stress situation and PECO's call center staff must remain focused on resolving that dispute. (CAUSE-PA St. 1-R at 13).

Q. HOW DO YOU RESPOND?

A. In my Direct Testimony, I pointed to the sharp decline in SOP referrals the past couple of years. That is a compelling enough reason to look at the existing SOP and identify areas where it could be improved so that more customers are aware of it. As to the claims of the other witnesses that billing disputes are "typically complicated" or occur in "high-stress situations," I submit that neither of these statements is documented in any way. While I am not advocating for discussing SOP when a customer is facing termination, I do not believe it would be problematic for PECO's call center representatives to offer this program once a customer's billing dispute has been resolved. Many such calls may be quite simple or even in the nature of inquiries, and these opportunities should be used to make customers familiar with the SOP.

Q. WHAT ARE THE RESPONSES TO YOUR PROPOSAL FOR ADDITIONAL PERIODIC COMMUNICATIONS BY PECO WITH DEFAULT SERVICE CUSTOMERS ABOUT SOP?

A. Ms. Reilly states that when the Commission established the SOP, it provided specific direction to offer it during customer contacts to EDC call centers. She testifies that it was not intended to include other communications to default service customers. She also suggests that quarterly communications to default service customers would increase administrative costs. (PECO St. No. 3-R at 16-17). Ms. Alexander believes that promoting SOP during quarterly communications about PTC changes, which occur through the bill, is not "appropriate." She also notes that "PECO's website prominently informs customers about their right to shop for generation supply and includes references to the PAPowerSwitch.com." (OCA St. No. 2R at 6).

Q. HOW DO YOU RESPOND?

A. The whole point of my Direct Testimony on this issue is that in recent years, referrals to the SOP have sharply declined. What the Commission first thought about conveying the availability of this program to customers is no longer relevant or sufficient. PECO certainly has plenty of opportunities during which it communicates with customers. Ms. Alexander does not explain her concern with having the availability of SOP communicated along with PTC changes through the bill and I continue to believe that coordinating a message about SOP with PTC changes would be an effective way to let consumers know about the program. However, that is not the only means, and I offered it only as an example. Ms. Alexander points to the information that PECO has on its website about shopping and I note that in the link she provided, nothing appeared about SOP. PECO should include information about the SOP on its website where it tells customers about shopping.

B. SHOPPING BY CUSTOMER ASSISTANCE PROGRAM ("CAP") CUSTOMERS

Q. WHAT IS THE CURRENT STATUS OF SHOPPING BY CUSTOMER ASSISTANCE PROGRAM ("CAP") CUSTOMERS IN PECO'S SERVICE TERRITORY?

A. Currently, PECO CAP customers are not able to shop for electric generation supply. However, as part of this proceeding, PECO submitted a proposed plan, under which EGSs would be required to charge CAP customers a rate for generation service that is at or below the PECO residential PTC at all times during the contract. Also, EGSs serving CAP customers may not enter into contracts that impose early cancellation and termination fees or other fees unrelated to generation service. PECO also proposes to implement the program only after receipt of notices of intent to participate from at least five EGSs. In addition, EGSs offering a rate do CAP customers would be required to post that rate on the Commission's shopping website, PAPowerSwitch.com. (PECO St. No. 3 at 4-7).

Q. DID YOU DESCRIBE THE COALITION'S CONCERNS REGARDING PECO'S PROPOSAL?

A. Yes. I identified three primary concerns of the Coalition with PECO's proposal, noting that it is not appropriate to: (i) require the EGS price to be at or below PECO's PTC the entire time; (ii) require EGSs to post their CAP shopping rate on the PAPowerSwitch.com shopping website; and (iii) commit to implementing the CAP shopping plan only upon confirmation that five EGSs intend to participate. (ESC St. No. 1 at 60).

Q. WHICH WITNESSES RESPONDED TO YOUR DIRECT TESTIMONY ON CAP SHOPPING?

A. Ms. Reilly (PECO), Ms. Alexander (OCA), Mr. Geller (CAUSE-PA) and Mr. Bertocci (TURN) submitted Rebuttal Testimony in response to my Direct Testimony on CAP shopping. (PECO St. No. 3-R at 4-5; OCA St No. 2R at 7-8; CAUSE-PA St. 1-R at 13-18; TURN St. No. 1-R at 4-7).

Q. WHAT DO THESE WITNESSES HAVE TO SAY ABOUT YOUR OBSERVATION REGARDING THE NEED FOR THE SUPPLIER'S PRICE TO BE AT OR BELOW THE PRICE TO COMPARE THE ENTIRE TIME?

A. As noted above, I expressed concerns about EGSs being required to offer CAP customers a price at or below the PTC for the entire term of the contract, particularly when – as the Coalition has shown – PECO's PTC is artificially low. (ESC St. No. 1 at 60). Also, we have no insight into PECO's future quarterly PTC adjustments. Ms. Reilly points out that the proposed restriction on EGS pricing for CAP customers is consistent with the Commission's guidance in the Proposed Policy Statement Order. Further, she notes that EGS participation is voluntary and EGSs can offer term lengths and other provisions that they believe are necessary to address price risk. Therefore, she believes that offering CAP customers a rate below the PTC for the entire contract term strikes a reasonable balance among a variety of competing concerns. (PECO St. No. 3-R at 4). Ms. Alexander suggests that the Coalition's proposal lacks specificity because I did not propose how often or by what amount the EGSs could charge more than the PTC. She also emphasizes the importance of ensuring that CAP customers receive affordable bills. (OCA St. No. 2R at 7). Mr. Geller expresses similar concern. (CAUSE PA St. 1R at 15). Mr. Bertocci does as well, and also notes that CAP customers may not be able to cancel their contracts before they incur charges in excess of the PTC and will also face challenges identifying when EGSs charges exceed the PTC even after they have been incurred. TURN St. No. 1-R at 5-6).

Q. HOW DO YOU RESPOND?

A. While the Coalition continues to believe that the PTC, until such time as it is modified to include all costs that PECO incurs to provide default service, should not be used to limit EGS prices for the entire contract term, we are willing to accept PECO's original proposal for the EGS price to be at or below the PTC for the duration of the contract, given that CAP customers are at least finally being given the opportunity to shop for generation service. The Coalition, as well as its individual members, reserve the right to litigate in future or separate proceedings that the PTC should not be used to restrict EGS prices to CAP customers beyond perhaps an initial term after enrollment.

Q. WHAT ARE THE VIEWS OF THE WITNESSES FOR THE OTHER PARTIES ON YOUR CONCERNS ABOUT EGSS BEING REQUIRED TO POST THE CAP RATE ON PAPOWERSWITCH.COM?

A. To address my concern about non-CAP customers being confused if they see CAP rates on PaPowerSwitch.com, I suggested that a portal be created on the website for publishing CAP rates. Ms. Reilly does not agree that a separate portal is necessary and instead suggests that utilizing an additional filter for CAP rates "would minimize customer confusion and promote transparency." (PECO St. No. 3-R at 5). In response to my concern, Ms. Alexander likewise disagrees with creation of a separate portal but suggests that the website could allow a CAP customer to check a box and be directed to a separate where CAP offers would be available. (OCA St. No. 2-R at 7-8). Mr. Geller simply objects to the Coalition's proposal as unnecessary and costly. (CAUSE-PA St. 1R at 15).

Q. PLEASE RESPOND.

A. While the Coalition suggested that a portal be created for CAP customers, so as to avoid the confusion of non-CAP customers seeing the published rates and not having access to them, we understand that the costs of a separate portal may make this solution unattractive. A portal is not the only way to avoid customer confusion, and the Coalition believes that a CAP filter as described by Ms. Reilly would be helpful. However, the solution proposed by Ms. Alexander of having a CAP customer check a box and be directed to a separate page appears to be more in line with the idea of a portal and would make it more likely that CAP customers would take note of the special information, while other customers would not be confused by having this rate in the mix of offers that are available. Therefore, the Coalition believes the proposal advanced by Ms. Alexander (or something very similar to it) should be implemented.

Q. AS TO YOUR CONCERNS ABOUT PECO'S FIVE SUPPLIER THRESHOLD BEFORE IT IMPLEMENTS CAP SHOPPING, HOW DID THE WITNESSES FOR THE OTHER PARTIES RESPOND?

A. As I noted, PECO offered no explanation or basis for its requirement for five EGSs to notify PECO of their intent to participate in CAP shopping before implementation. Since the number of EGSs who are willing to participate should have no bearing on PECO's commitment to implement the program, I recommended eliminating this condition. (ESC St. No. 1 at 61). In her Rebuttal, Ms. Reilly notes PECO's continued believe that the receipt of five notices from EGSs is a reasonable threshold before incurring the necessary program and information technology expenses. (PECO St. No. 3-R at 4-5). Ms. Alexander and Mr. Geller believe that PECO's proposal is reasonable in order to prevent the expenditure of ratepayer funds for a program that does not solicit sufficient EGS interest. (OCA St. No. 2-R at 8; CAUSE-PA St. 1R at 16).

Q. WHAT IS YOUR RESPONSE?

A. The Coalition's original question – of why five suppliers is the threshold – still has not been answered. It seems that PECO just viewed five as being a good number of commitments to move forward and other parties think that is reasonable. The Coalition continues to believe that the commitments of five suppliers should not be an absolute make or break point for the implementation of CAP. If three or four EGSs provide notice of an intent to participate, PECO should not be relieved of the obligation to implement CAP shopping. At a minimum, PECO should be required to communicate with those EGSs to determine their interest and level of commitment. If PECO continues to have concerns about whether there is sufficient interest among EGSs in the program, it should notify the Commission of a delay and repeat the process after one year. Otherwise, with a four-year DSP, CAP shopping in PECO's service territory would not occur until after 2025.

Q. DOES THAT COMPLETE YOUR SURREBUTTAL TESTIMONY?

A. Yes.