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November 5, 2008

VIA FEDERAL EXPRESS

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building, 2nd Floor
400 North Street
Harrisburg, PA 17102

Re: *Revisions of Guidelines for Maintaining Customer Service; Establishments of Interim Standards for Purchase of Receivables (POR) Programs*, Docket No. M-2008-2068982

Dear Secretary McNulty:

PECO Energy Company ("PECO") welcomes the opportunity to submit comments in response to the Secretarial Letter issued in this proceeding on October 16, 2008 ("Secretarial Letter"). Filed along with this original letter are an additional ten (10) copies.

The Secretarial Letter seeks comments "regarding the revision of guidelines relating to customer service in order to implement Purchase of Receivables (POR) Programs by Natural Gas Distribution Companies" ("NGDC") and four specific questions. These questions include:

1. Should an NGDC be allowed to terminate customers for the failure to pay receivables purchased by an NGS pursuant to a Commission-approved POR program?
2. Should the Guidelines be modified to remove this uncertainty?[1]
3. Are there other related consumer protection issues that need to be addressed as a result of any changes to utility termination rights?
4. Are any other statutory amendments necessary for this type of POR program to be implemented?

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[1] As used here, "Guidelines" refers to the "Guidelines for Maintaining Customer Services at the Same Level of Quality Pursuant to 66 Pa. C.S. Section 2206(a), Assuring Conformance with 52 Pa.Code Chapter 56 Pursuant to 66 Pa.C.S. §§ 2207(b), 2208(e) and (f) and Addressing the Application of Partial Payments, Docket No. M-00991249F003 (entered August 26, 1999)("*Customer Service Guidelines*"). In that order, the Commission determined that NGDCs could not terminate gas service to a customer that has failed to pay gas supply-related receivables of an alternative natural gas supplier where the NGDC has acquired those receivables through a Commission-approved POR program.

PECO's comments respond to the issues raised in Question Nos. 1 and 2.[2] In anticipation of comments to be received from other stakeholders, PECO reserves the right to submit reply comments on the latter two questions.

- **NGDCs Should Be Permitted to Terminate Service to a Customer for Non-Payment of Receivables Purchased from an NGS.**

PECO believes that the *Customer Service Guidelines* serve as an impediment for natural gas distribution companies such as PECO to develop and offer POR programs. With the prohibition against customer termination for non-payment of purchased supplier accounts, the *Customer Service Guidelines*, contrary to reasonable business practices, deprive utilities of a useful tool for managing uncollectible accounts risk associated with these receivables even though alternative natural gas suppliers have the ability to terminate their non-regulated supply service for nonpayment of the same receivables and the NGDCs could move to terminate the customer if the unpaid charges were for their supply or distribution services.

PECO would more readily propose a gas POR program if it knew that it could apply reasonable termination rules to manage this risk. In this respect, customers that take utility service should not be permitted to escape termination procedures merely because they have chosen to purchase their gas supply from an alternative supplier. By taking assignment of the receivables through the purchase, the NGDC should find itself in no worse of a collection or termination position vis a vis the customer, for non-payment of the supply charges, than would be the alternative supplier.

PECO, therefore, recommends that the Commission issue an order revising the *Customer Service Guidelines* to remove the prohibition against termination for nonpayment of the purchased receivables. In such order, the Commission should clarify that, once purchased by the utility, these receivables are subject to the same collection and termination rules as are applied other gas NGDC charges and the same rules under Chapter 14 of the Public Utility Code and Chapter 56 of the Commission's regulations.

- **The December 31, 2008 POR Program Filing Deadline Should Be Suspended Until After the Commission Revises the *Customer Service Guidelines.***

PECO also would like to address the December 31, 2008 filing deadline that the Commission established in the SEARCH order for an NGDC to propose a POR program.[3] While describing the POR program filings as "voluntary" in the Secretarial Letter, the SEARCH order conditioned the voluntary nature of the filing on a requirement that if such filing is not made, the NGDC must include "a fully allocated cost of service study" in its next filing made pursuant to Section 1307(f) of the Public Utility Code, or in its next general rate case, for the purposes of examine "whether further unbundling of natural gas costs is warranted for that NGDC."[4] NGDCs are given this choice without the benefit of a clear Commission policy, or final regulations

[2] PECO also joins in the comments submitted by the Energy Association of Pennsylvania in response to the Secretarial Letter.

[3] *Investigation into the Natural Gas Supply Market: Report on Stakeholder's Working Group (SEARCH), Final Order and Action Plan*, Docket No I-00040103F0002, page 12 (entered September 11, 2008)("SEARCH Order").

[4] *Id.* at 12-13.

governing POR programs.[5] Putting aside the issues of whether the Commission could require further unbundling of a utility's charges[6] or even require the NGDC to have a POR program[7], the lack of clarity of the ground rules for POR programs provides good cause for a NGDC not to propose one, at least until it clarifies the *Customer Service Guidelines* and the Commission establishes final POR program regulations.

Accordingly, PECO believes that, absent a clear statement from the Commission on this issue or final regulations, it would seem premature to expect that NGDCs that have not yet filed POR programs would do so now. Therefore, PECO requests that the Commission should postpone its deadline for voluntary POR programs until after it has clarified its position on the termination issue and issued its final regulations governing POR programs.

Respectfully submitted,

Kent D. Murphy

Kent D. Murphy
Counsel for PECO Energy Company

cc: Chairman James H. Cawley
Vice Chairman Tyrone Christy
Commissioner Wayne E. Gardner
Commissioner Kim Pizzingrilli
Commissioner Robert F. Powelson
Robert F.Wilson, Director, Fixed Utility Services
Paul Diskin, Energy, Fixed Utility Services
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Robert F. Young, Deputy Chief Counsel
Patricia Krise Burket, Assistant Counsel
Daniel Mumford, Policy Analyst, Bureau of Consumer Services
Tanya McCloskey, Office of Consumer Advocate
William Lloyd, Office of Small Business Advocate.

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[5] In the SEARCH Order, the Commission directed its staff to initiate a rulemaking process for the purpose of developing rules governing POR programs but the notice and comment period required for a rulemaking has not been initiated yet.

[6] *See* 66 Pa.C.S. § 2205(c)(5), wherein is provided: "No natural gas distribution company shall be required to forward payment to entities providing services to customers and on whose behalf the natural gas distribution company is billing those customers before the natural gas distribution company has received payment for those services from customers. The Commission shall issue guidelines addressing the application of partial payments."

[7] *See* 66 Pa.C.S. § 2203 (3), wherein is provided that the unbundling of services other than "commodity, capacity, storage, balancing and aggregator services" can be exercised only can only be addressed "through a rulemaking."