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June 10, 2008

**VIA HAND DELIVERY**

James McNulty, Secretary  
PA Public Utility Commission  
Commonwealth Keystone Bldg.  
2nd Fl., 400 North Street  
P.O. Box 3265  
Harrisburg, PA 17105-3265

Re: Position Papers of Direct Energy Services, LLC  
Retail Market Working Group; Docket No. M-00072009

Dear Secretary McNulty:

Enclosed for filing, in the above-referenced matter, are the original and ten (10) copies of Direct Energy Services, LLC's Position Papers concerning the six (6) Retail Market Issues identified in the Commission's Policy Statement.

If you have any questions regarding this filing, please contact me at your convenience.

Very truly yours,



Kevin J. Moody  
For WolfBlock LLP

KJM/jls  
Enclosures

cc: Lawrence F. Barth w/enc, Via email

HAR:80976.1/DIR023-251151

**Pennsylvania Public Utility Commission  
Retail Markets Working Group  
Docket No. M-00072009**

**Position Papers of Direct Energy Services, LLC**

On April 15, 2008, the Pennsylvania Public Utility Commission (“Commission”) formally noticed stakeholders that it was convening the Retail Market Working Group to “develop policy recommendations in certain areas to enhance customer choice and the development of robust and effective retail markets.”<sup>1</sup> Direct Energy Services, LLC (“Direct Energy”) applauds the Commission’s efforts in convening this work group and appreciates the opportunity to express its positions with regard to these important issues. In accordance with the Commission’s April 15 notice, Direct Energy submits these severable Position Papers on the Retail Market Issues identified in the Policy Statement at § 69.1812 through § 69.1817.

**SUMMARY**

In May 2007, the Commission issued its Final Rulemaking Order<sup>2</sup> for default service (“Default Service Order”) and an accompanying Final Policy Statement Order<sup>3</sup> (“Policy Statement”). In its Policy Statement, the Commission requested that a working group be convened to discuss several retail market issues and programs deemed by the Commission to be in the public interest, with the goal of incorporating those programs into the retail electricity markets in Pennsylvania.

The Commission’s Policy Statement outlines six different policy positions or programs that are linked directly to the success of retail markets. Each of them, in its own way, serves to “level the playing field” between incumbent

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<sup>1</sup> Secretarial Letter at p. 1; 38 Pa. B. 2029 (4/26/08).

<sup>2</sup> *Rulemaking Re Electric Distribution Companies Obligation to Serve Retail Customers at the Conclusion of the Transition Period Pursuant To 66 Pa. C.S. § 2807(e)(2), Notice Of Final Rulemaking Order*, Docket No. L-00040169, Order entered May 10, 2007 (“Default Service Order”).

<sup>3</sup> *Default Service and Retail Electric Markets; Final Policy Statement*, Docket No. M-00072009, Order entered May 10, 2007 (“Policy Statement”).

electric distribution company default service providers (“EDCs” and/or “DSPs”) and electric generation suppliers (“EGSs”).

Direct Energy believes that a robust competitive electricity market is the best way to put downward pressure on electricity prices and offer innovative products to electricity customers. As a result, Direct Energy supports all six of these policies in their entirety.

The importance of a robust competitive electricity market in Pennsylvania has never been as important as it is today. Customers across the Commonwealth are being burdened by increasing prices for many necessities. The Commission has recognized that implementation of these retail market policies are in the public interest. Direct Energy believes that these policies will give rise to fully robust competitive electricity markets.

Direct Energy is an EGS operating in Pennsylvania. Direct Energy is the North American affiliate of Centrica, plc, headquartered in the United Kingdom. With more than 5 million customer relationships in North America and over 30 million customer relationships globally, Direct Energy and its affiliate companies represent one of the largest energy supply companies in the world. We are a consumer oriented company and offer our customers simple, friendly and direct energy products and services.

Direct Energy currently serves electricity to the majority of the 4,500 customers in Pike County and has gas customers in Western Pennsylvania. Direct Energy recently closed on its purchase of Strategic Energy. Strategic Energy is a Pennsylvania based company with significant business operations in Pittsburgh. Strategic Energy also serves electricity and related products to business customers in the Duquesne Light and Penn Power service territories. These comments are submitted on behalf of Strategic Energy as well.

All correspondence in this proceeding should be addressed to:

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**Pennsylvania Public Utility Commission  
Retail Markets Working Group  
Docket No. M-00072009**

**Position Paper of Direct Energy Services, LLC  
Issue: § 69.1812. Information and Data Access**

In its Policy Statement,<sup>1</sup> the Commission states:

The public interest would be served by common standards and processes for access to retail electric customer information and data. This includes customer names and addresses, customer rate schedule and profile information, historical billing data, and real time metered data. Retail choice, demand side response, and energy conservation initiatives can be facilitated if EGSs, curtailment service providers, and other appropriate parties can obtain this information and data under reasonable terms and conditions common to all service territories, that give due consideration to customer privacy, provide security of information, and provide a customer an opportunity to restrict access to non-public customer information.<sup>2</sup>

Information and data access is vitally important to the success of competitive electricity markets. Specifically, as more advanced metering initiatives become available, it will be absolutely critical that the competitive market have this information available to them on a real-time basis so that all customers can receive the benefits of the advanced metering. As mentioned by the Commission, customer lists and data should be made available to licensed EGSs in the commonwealth. Data elements that should be included in the customer list include:

- customer name
- mailing address
- service address
- EDC account number
- phone number
- meter read cycle
- customer class and rate code
- annual and monthly usage for the prior 12 months

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<sup>1</sup> *Default Service and Retail Electric Markets; Final Policy Statement*, Docket No. M-00072009, Order entered May 10, 2007 ("Policy Statement").

<sup>2</sup> Policy Statement at pp. 12-13.

- annual and peak demand for each of the previous 12 months.

Direct Energy recognizes that some customers may have concerns about the release of all of this data to an EGS. Direct Energy supports the implementation of consumer protection rules that would allow customers to prevent sensitive information (phone number, social security number, *etc.*) from being made available to a licensed EGS. These protections should be made available to the consumers who affirmatively wish to exercise them.

More importantly than the data elements outlined above, customers should have portable access to their data so that a customer can log onto a website to authorize the release of its data to a licensed EGS. Data should be made available, like cell phone data today, so that a customer need not know his or her EDC account number to access it. A phone number, Social Security number, service address or some combination of elements or other reasonable means of identification should be the threshold for data access.

The Commission stated that customer information should be made available under reasonable terms and conditions common to all service territories. Direct Energy believes that customer information should be made available at no incremental cost or charge to a licensed EGS. Information systems are already paid for by customers through distribution rates, and information availability benefits distribution service customers as well. Any incremental EGS costs will flow back to customers through less competitive EGS rates. If EGSs are charged, customers end up paying twice for EDC data systems.

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**Position Paper of Direct Energy Services, LLC  
Issue: § 69.1813. Rate and Bill Ready Billing**

In its Policy Statement,<sup>1</sup> the Commission states that: “The public interest would be served by the consideration of the availability of rate and bill ready billing in each service territory”.<sup>2</sup>

These two types of billing systems serve different functions and benefit different types of customers. The primary difference between the two systems is “where the math is calculated”.

In a rate-ready system, the EGS submits a customer’s per kWh rate to the EDC. The EDC takes the rate and multiplies it by the customer’s usage and calculates a bill for the customer. The EDC system performs the mathematical calculations. This type of system benefits customers who purchase a straightforward single priced electricity product. Rate ready systems have proven to be very valuable in the development of residential competition in other markets. Duquesne Light operates a rate ready billing system.

Bill ready systems are more conducive to special products, variable priced products and other risk-sharing products available in the market. Under a bill-ready system, the EGS calculates all of its customer’s charges and then sends the EDC a statement of charges and potentially other information that is ready to be placed directly onto the bill. Bill ready billing is necessary for more complex electricity products. Originally, it was envisioned that bill ready billing was needed only for business customers who desired more complex products. Today, as the Commonwealth is looking at advanced meters, energy efficiency, on-site generation, solar panels and other innovative products for residential customers as well as business customers, that notion no longer holds true.

Although some EDCs in the Commonwealth have already invested in both types of billing systems, most of the EDCs and EGSs have typically invested in

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<sup>1</sup> *Default Service and Retail Electric Markets; Final Policy Statement*, Docket No. M-00072009, Order entered May 10, 2007 (“Policy Statement”).

<sup>2</sup> Policy Statement at p. 13.

one system or the other. This selection process hurts the market generally, because competition may be decreased because an EDC has selected either "System A" or "System B", and one or more EGSs have invested in the other. Suppliers could invest in both and be able to serve in all markets. However, that would be an extremely inefficient outcome, with multiple suppliers investing in multiple billing systems. It would be much more efficient for each of the EDCs to house both systems and welcome all suppliers, regardless of which system the EGS business utilizes.

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**Position Paper of Direct Energy Services, LLC  
Issue: § 69.1814. Purchase of Receivables**

In its Policy Statement,<sup>1</sup> the Commission states that: "The public interest would be served by the consideration of an EGS receivables purchase program in each service territory."<sup>2</sup>

In order to maximize market efficiencies in the electricity market, only one residential and small commercial billing and collections system is needed. It is extremely inefficient from a market perspective to have one monopoly billing system and several others trying to compete with it. Therefore, as long as the customer relationship is shared (energy and transportation), then whoever owns the customer relationship should own the credit and collections process. As long as the EDC/DSP owns the customer relationship, the EDC/DSP should be required to perform consolidated billing and collections services if the EGS customer requests it, just as if the EDC/DSP owned the full relationship with the customer.

The EDCs/DSPs currently perform and are likely in the future to perform billing services for wholesale suppliers. These suppliers may or may not be affiliates of the EDCs/DSPs. It would be discriminatory for EDCs/DSPs to bill customers on behalf of wholesale suppliers and their own affiliate companies and not bill customers who choose to utilize the services of EGSs.

Direct Energy does not believe that the EDCs would incur any incremental costs or resources to implement their billing and collections processes consistent with purchase with receivables ("POR") programs implemented in several other regions of the country. Today, Pennsylvania EDCs perform billing and collections services for all of their customers (with the limited exception of perhaps some shopping customers in smaller EDC territories already serving at market rates). In today's world the EDCs presumably recover all costs

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<sup>1</sup> *Default Service and Retail Electric Markets; Final Policy Statement*, Docket No. M-00072009, Order entered May 10, 2007 ("Policy Statement").

<sup>2</sup> Policy Statement at p. 13.



associated with billing and collections, including an allowance for uncollectible debt. They are also obligated, and presumably stand ready to perform, consolidated billing for a customer choosing an EGS for electricity supply. In the absence of any competitive market entry after rate cap expiration, the EDCs would continue to collect all costs incurred for billing and collections. It is only logical to ask why EDC costs would increase with the entry of an EGS into this model. EDC costs should not increase under a POR program.

In fact, it is likely that EDC costs will decrease under a POR program. In a competitive market, it is likely that the ultimate cost to consumers will be lower than if they remain on default service (credit-challenged customers especially will be unlikely to move to a competitive market product unless they see a reduced price). Assuming market rules are rational, as costs decrease, bad debt expense will decrease. To the extent that some incremental costs are required for programming changes, they should be very minor:

As discussed above, the credit and collections relationship should stay with the entity that has the ultimate customer relationship. As an alternative to the EDC performing POR services, Direct Energy would be fully supportive of a model where all customers were billed for all charges (including wires charges) by the competitive supplier, so long as the supplier had all of the collection rights available to it that the wires providers now enjoy. In that scenario, the supplier owns and manages the full customer relationship and bears all risk of non-payment, including non-payment for wires charges.

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**Position Paper of Direct Energy Services, LLC  
Issue: § 69.1815. Customer Referral Program**

In its Policy Statement,<sup>1</sup> the Commission states that: "The public interest would be served by consideration of customer referral programs in which retail customers are referred to EGSs."<sup>2</sup>

Direct Energy believes that a customer referral program is one of the most cost-effective and efficient ways to educate customers about retail choice options. If a customer calls the utility call center, the utility educates the customer about available alternative energy choices, but the customer does not need to move to a competitive supplier simply because the call was made to the utility. It is the customer's choice.

Today, if an individual moves into an EDC service territory and calls the EDC to initiate service, the customer automatically becomes an electricity customer of the EDC. In other words, if the customer seeks wires service, by default the customer (at least initially) also purchases default generation service. The customer is not educated about or informed of any alternative supply options. A customer referral program is simply a program that educates customers who call the EDC for a service-related issue.

In markets where these programs have been implemented, inbound callers to the utility call center are asked if they would like to be educated about alternative supply options. If they respond positively, the call center employee proceeds to discuss retail supply alternatives with the customers. The customers can choose to receive service from alternative suppliers and if they do, the call center will connect them to the alternative suppliers' call centers to enroll.

Customer referral programs have been implemented in New York and Connecticut. In 2007, the Illinois legislature gave the Illinois Commerce

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<sup>1</sup> *Default Service and Retail Electric Markets; Final Policy Statement*, Docket No. M-00072009, Order entered May 10, 2007 ("Policy Statement").

<sup>2</sup> Policy Statement at p. 13.

Commission the authority to establish customer referral programs, but they are not yet operational in that market.

At a minimum, the Commission should adopt a policy where all new customers – whether a result of a re-connection, a move into the service territory, or a move within a service territory – are required to affirmatively select an electricity supplier. If the customer refuses to make a selection, then the EDC should randomly assign the new customer to an EGS.

Direct Energy believes that any customer choice referral program needs to be developed in compliance with the rules and regulations of the Commonwealth.

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**Position Paper of Direct Energy Services, LLC  
Issue: § 69.1816. Supplier Tariffs**

In its Policy Statement,<sup>1</sup> the Commission states: "The public interest would be served by the adoption of supplier tariffs that are uniform as to both form and content. Uniform supplier tariffs may facilitate the participation of EGSs in the retail market of this Commonwealth and reduce the potential for mistake or misunderstandings between EGSs and EDCs."<sup>2</sup>

Early on in American commerce, very wise business leaders decided that markets would be much more efficient if certain standards were adopted. For example, builders of railroads traveling East to West agreed with the builders of railroads traveling West to East that it would be prudent to build track and cars to common specifications so that they could use each others equipment if needed. Ever since then, businesses have worked to standardize products as much as possible, to the point today where we have the government agency National Institute of Standards and Technology, and private sector standardization organizations such as the Software Standards Institute and Underwriter's Laboratory, certifying standards for products ranging from light bulbs to computers and software specifications. It is this standardization that enables someone in California to buy a light bulb that was manufactured by a company in New York and put into a lamp that is manufactured in Pennsylvania and placed in service in Oregon.

Standardization is completely absent in electricity markets across Pennsylvania and the country. EDCs across Pennsylvania have different rules, data requirements, data processes and standards. This leads to extreme inefficiencies across the market.

Pennsylvania is in a unique position to take a leadership role among all restructured states to unify utility processes and procedures. This effort will

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<sup>1</sup> *Default Service and Retail Electric Markets; Final Policy Statement*, Docket No. M-00072009, Order entered May 10, 2007 ("Policy Statement").

<sup>2</sup> Policy Statement at p. 13.

enable some of the efficiencies that have not come to fruition at this point, but were envisioned when deregulating electricity pricing. Pennsylvania consumers would receive the benefit of more efficient provision of competitive energy markets relative to their neighboring states.

A uniform supplier tariff across the state would streamline the market immensely. One of the biggest hurdles a competitive retail supplier faces is the multitude of different rules not only among states, but among utilities within a state. This is certainly true in Pennsylvania. Among other aspects of a retail business, a uniform tariff streamlines operations and compliance, and is especially important in Pennsylvania in view of the flexibility otherwise provided to the DSPs by the Default Service Order and Policy Statement.

The market rules, regulations and standards should be consistent across the state. These include operational protocols and tariffs, consumer protection and compliance issues, codes of conduct for utility and affiliate behavior, retail market programs, and a clear delineation of what are EDC services and what are DSP services.

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**Position Paper of Direct Energy Services, LLC  
Issue: § 69.1817. Retail Choice Ombudsman**

In its Policy Statement,<sup>1</sup> the Commission states: "The public interest would be served by the designation of an employee as a retail choice ombudsman at each EDC and the Commission. The ombudsman would be responsible for responding to questions from EGSs, monitoring competitive market complaints and facilitating informal dispute resolution between the DSP and EGSs."<sup>2</sup>

The Commission proposes a retail choice ombudsman within the Commission and within each EDC. This trend was started by New York. That office was extremely instrumental in developing the retail markets in New York. Recently, the Illinois Governor signed legislation creating a New York-style Office of Retail Market Development.

Pennsylvania is showing leadership in this arena on two fronts. First, it is proposing this office before the rate caps expire. New York did it when rate caps were not an issue. Illinois implemented the law as rate caps were expiring. The Pennsylvania ombudsman will be on the ground in advance of the caps expiring. Second, Pennsylvania is suggesting that each EDC employ a retail choice ombudsman as well, to monitor the market and act as somewhat of a liaison between the EGSs and the EDCs. This would be a very positive step forward to the development of fair and robust competitive electricity markets in the Commonwealth.

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<sup>1</sup> *Default Service and Retail Electric Markets; Final Policy Statement*, Docket No. M-00072009, Order entered May 10, 2007 ("Policy Statement").

<sup>2</sup> Policy Statement at pp. 13-14.

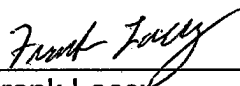
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**CONCLUSION**

Direct Energy applauds the Commission for the establishment of the Retail Markets Working Group. The six Retail Market issues outlined in the Commission's Policy Statement are critical to the development of robust competitive electricity markets that will benefit all Pennsylvanians. Direct Energy urges the RMWG to expedite its process in order to provide final recommendations to the Commission in early 2009. This would give the Commission adequate time to review and implement its suggestions and give the EDC and EGS communities enough time to modify their respective systems in a timely manner such that PPL customers will have the benefits of competitive markets when their rate caps expire at the end of 2009.

Respectfully submitted,  
Direct Energy

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