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June 3, 2011

Via Electronic Filing
Rosemary Chiavetta, Secretary
PA Public Utility Commission
PO Box 3265
Harrisburg, PA 17105-3265

Re: Investigation of Pennsylvania's Retail Electricity Market
Docket No. I-2011-2237952

Dear Secretary Chiavetta:

On behalf of the Stream Energy Pennsylvania, LLC enclosed please find the original of its Comments along with the electronic filing confirmation page with regard to the above-referenced matter.

Sincerely yours,

Deanne M. O'Dell

Deanne M. O'Dell, Esq.

DMO/lww
Enclosure

cc: ra-OCMO@state.pa.us w/enc.

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Investigation of Pennsylvania's	:	
Retail Electric Market	:	Docket No. I-2011-2237952
	:	

COMMENTS OF
STREAM ENERGY PENNSYLVANIA, LLC

I. INTRODUCTION

By order entered April 29, 2011, the Pennsylvania Public Utility Commission ("Commission") opened a statewide investigation regarding the current retail market in Pennsylvania "with the goal of making recommendations for improvements to ensure that a properly functioning and workable competitive retail electricity market exists in the state." Order at 2.

Stream Energy Pennsylvania, LLC ("Stream Energy") is a licensed electric generation supplier ("EGS") in electric distribution company ("EDC") service territories of Allegheny Power, Duquesne Light Company, Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, PECO Energy Company, PPL Electric Utilities, Inc., and UGI Utilities, Inc. Stream Energy received its license by order entered September 2, 2010 at Docket Number A-2010-2181867 and has been actively engaged in the Pennsylvania market since that time. Stream Energy appreciates the Commission's initiative in opening this investigation as well as the opportunity to provide these comments in response to the Commission's order.

II. RESPONSES TO QUESTIONS SET FORTH BY COMMISSION

A. Question No. 1: What is the present status of competition for retail electric generation for customers, by class and service territory, and for alternative suppliers?

The Pennsylvania electricity segment has recently experienced a number of successes while transitioning to a deregulated market structure and achieving close to a twenty percent switch rate. This reality is a significant accomplishment for which the Commission should be proud.

From a supplier standpoint, two regulatory hallmarks of a successful competitive market are:(1) regulatory certainty; and, (2) appropriate safeguards involving licensure, but without inappropriate barriers to entry.

In the Pennsylvania deregulated market, it is imperative that the Commission and other policymakers appreciate that suppliers whether large publicly-held companies or privately-held firms – need regulatory certainty. Investors, like consumers, make certain risk assessments in allocating capital investments to any existing or new enterprises. If market regulators engage in significant market restructuring or change, it has been our experience that investors are less likely to invest due to the risks currently or potentially forthcoming in that market. This discouragement, in turn, has a negative impact on consumers in that suppliers in an uncertain market framework have lessened levels of access to needed credit and capital to help provide lower rates and innovative products to consumers.

Natural complements to regulatory certainty are conditions whereby markets also contain appropriate standards to encourage reputable and viable participants, and not so onerous as to create anticompetitive barriers that perpetuate inflated price levels. In this regard, regulations should not target or single out particular types of suppliers based on their marketing methodologies. The Commission's existing regulatory stance serves consumers well as the requirements to obtain licensure are appropriately defined, yet not overly burdensome.

B. Question No. 2: Does the existing retail market design in Pennsylvania present barriers that prevent customers from obtaining and suppliers from offering the benefits of a fully workable and competitive retail market? To the extent barriers exist, do they vary by customer class?

Currently, there are some processes in the market that are not arguably customer-friendly or create barriers that would allow the customer to immediately receive a price savings on their electric service. For example, assume a customer moves from Ohio to Pennsylvania. Before the customer can initiate service with a supplier, the customer must first receive default service and be registered with the EDC. The same is true whenever a customer moves. Even though the customer might want to remain with their current supplier, they nevertheless must return to the default service with the EDC, and then proactively switch back to their prior supplier. This is burdensome for consumers, in that, unlike other services such as telephone, cable vs. dish, internet provider, etc. all the customer needs to do is to initiate service with the competitive supplier for that service.

Another barrier experienced by suppliers is the lack of standardization of processes and policies among the varying EDCs in the Pennsylvania market. A significant consideration for any market entrant into the Pennsylvania market is which EDC service area to serve first. This is because an analysis of each EDC's internal operating systems is required since they are all different. This is not necessarily the same (for the most part) in the Texas market, for instance, where there is standardization, by and large, across the varying utilities serving within the ERCOT region.

C. **Question No. 3: What are the economic and managerial costs associated with electric distribution companies (EDCs) fulfilling the default service role? Are the EDCs accurately passing those costs along to default service customers? Do default service rates include any elements that are not cost-based? Is an examination of distribution rates needed to ensure proper cost allocation? Are there barriers to competition as a result of having EDCs provide default service?**

Stream Energy does not currently have any comments to the first four parts of this question. However, Stream Energy would like to speak to the last part regarding barriers to competition. Stream Energy does believe there are barriers to competition as a result of EDCs providing default service. These barriers are explained further below in response to subsequent questions.

D. **Question No. 4: Are there unintended consequences associated with EDCs providing default service, and related products, such as time-of-use rates?**

With respect to EDCs provisioning default service, Stream Energy answers this portion of the question in response to Question #5 below.

While Stream Energy does not believe EDCs should provide default service in the long term, time-of-use ("TOU") rates are good consumer products – regardless of the market participant providing them – because they encourage customers to use electricity during off-peak hours, when prices are cheaper. However, a problem arises when both the on- and off-peak price on the TOU rate is <u>less</u> than the Price to Compare. For instance, for January 2011 to May 2011, one EDC had an on-peak TOU rate of 7.5 cents per kWh, and off-peak TOU rate of 6.1 cents per kWh. In comparison, the flat Price to Compare rate at the same time was 9.27 cents per kWh. For June 2011 to Sept 2011, the EDC's TOU rate will be on-peak 10.51 cents per kWh and off-peak of 6.97 cents per kWh, and their Price to Compare is 9.06 cents per kWh, which is in between the on- and off-peak price. From a policy standpoint, it does not make sense to have both on- and off-peak rates less than the Price to Compare because the purpose of the TOU rate is to incent customers to utilize less during the on-peak by requiring them to pay more for energy during those times. Therefore, an on-peak rate that is higher than the Price to Compare sends inaccurate pricing signals to customers and undermines the intended purpose of the TOU rate. It further inhibits the ability of suppliers to offer a viable competitive price.

E. Question No. 5: Should default service continue in its current form? Does default service impede competition or otherwise prevent customers from choosing electricity products and services tailored to their individual needs? Does default service provide an advantage to the incumbent EDC and/or its generation affiliate(s)?

Stream Energy does not believe that default service should continue it its current form. While it has served its purpose, the current design of default service, needs to evolve to accommodate a more mature and competitive electric market.

Default service, in its current form with its current pricing structure, arguably deters competition because of the timing of the hedges that make up the price of default service. The EDCs are making forward purchases without having the customers on a contract for the same term. As an EGS, if we did this, it would be speculating where the market is going to be in the future. The following two illustrations highlight the issue:

- ***Illustration 1:*** Given that EDCs are making scheduled purchases for the default service at current low prices, this inherently puts suppliers offering a fixed rate contract at a disadvantage. This is because competitive suppliers are only buying when a customer signs a fixed price contract. If the market goes up from when the EDC executed the default purchases, then the EGSs will not be able to be competitive because the EDCs will be able to offer a lower price than a supplier.

- ***Illustration 2:*** However, the inverse of Illustration 1 is equally true.

Arguably, the problem with both scenarios is that real-time pricing is not utilized by the EDC. A policy that would stimulate the competitive marketplace and offer real-time pricing signals for consumers would be one that required the default service provider to participate in more real time purchasing.

In addition to the issue raised above, default service provided by the EDC also inherently gives the EDC, its generation and supplier affiliates, a competitive edge. For example, several EDCs share similar names to their EGS supplier affiliates. Stream Energy has had to battle much customer confusion because of the similar names. Moreover, there is an inherent thinking by customers that since the affiliated EGS shares the name with the EDC the service is somehow better. An additional problem arises because the use of the shared name relies on the incumbent's name from whom the customer has received monopoly service for decades. This creates a "brand" loyalty that is difficult for competitors to overcome.

F. Question No. 6: Can/should the default service role be fulfilled by an entity, or group of entities, other than the EDC? If the default service role should be filled by an entity other than an EDC, what mechanisms could be employed to transition the default service role away from the EDC and onto competitive electric generation suppliers (EGSs)? Are different approaches appropriate for different customer classes? What criteria should be used to ensure that EGSs are qualified to assume the default service role and maintain reliable service?

Stream Energy believes that default service should be fulfilled by electric suppliers. However, despite who serves this role in the future, Stream Energy believes that, at a minimum, the Commission should adopt a pricing model for default service that Texas used in the early years of its deregulation. Included within Texas' deregulation bill was a regulated rate concept governing the pricing behavior of the ex-EDC providers known as the "Price To Beat" or PTB.

Under PTB, the regulatory body establishes with each EDC, a PTB *floor* that must be charged to all customers to prevent any anticompetitive practice (intentional or otherwise) from the EDCs. This would, in turn, allow new market entrants to become more established. Unlike the default service provider, new market entrants could charge a price below the Price to Beat, but the incumbent EDC could not. Like Texas, Stream Energy recommends that a 5-year or similar implementation period be set to allow such a transition.

In order to incentivize participation in the Pennsylvania market, the Price to Beat would have to be *high enough* to allow for a modest profit by new entrants. Thus, it has to be above the cost of inputs such as natural gas and coal. For example, a PTB price that is fixed at the actual wholesale procurement price of electricity does not give potential entrants margin to compete against incumbent EDCs. This is why Stream Energy encourages that, at a minimum, real-time pricing be required regardless of the entity offering default service.

Another related concern for suppliers under the current default service model in Pennsylvania is that the Price to Compare rate provided by the EDC needs to include all the costs of providing default service. If it does not – either because the costs of EDC's shared systems are not allocated or because all the costs of providing default service have not been properly identified then the Price to Compare is not an accurate market price with which EGSs can compete. An example of this problem is generation rate caps. While the EDCs were operating under generation rate caps that were completely divorced from the true market price of energy, suppliers could not price competitive offers. It is important that all the costs of default service be included in the Price to Compare and that the default rate reflect the accurate and current market price of energy in order to stimulate competition.

G. **Question No. 7: How can Pennsylvania's electric default service model be improved to remove barriers to achieve a properly functioning and robust competitive retail electricity market? Are there additional market design changes that should be implemented to eliminate the status quo bias benefit for default service?**

Please see Stream Energy's response to Question # 5 and #6.

H. **Question No. 8: What modifications are needed to the existing default service model to remove any inherent procurement (or other cost) advantages for the utility?**

While Stream Energy believes that default service should eventually be transitioned away from the EDC, in the immediate future, EDCs default pricing should be tied to real time pricing. Stream Energy believes that that pricing should be updated more frequently rather than quarterly.

I. **Question No. 9: What changes, to Regulations or otherwise, can the Commission implement on its own under the existing default service paradigm to improve the current state of competition in Pennsylvania?**

Please see Stream Energy's response to Question # 5.

J. **Question No. 10: What legislative changes, including changes to the current default service model, should be made that would better support a fully workable and competitive retail market?**

Stream Energy does not have a response to this question at this time.

K. **Question No. 11: Are there, or could there be, potential barriers being created by the implementation of the EDC Smart Meter plans?**

Stream Energy believes that the introduction of Smart Meters is a positive step for Pennsylvania customers. In order for customers to truly realize all of the benefits of smart meters, the information from these meters needs to be open and available for the appropriate market stakeholders. If this information is not open and available, it will create a competitive edge for the EDC and ultimately inhibit the customer from getting the information they need to make more cost conscious decisions regarding their electric usage. It could also potentially inhibit suppliers' ability to create innovative products that allow customers to leverage the many benefits of smart meters.

III. CONCLUSION

Stream Energy appreciates the Commission's initiative in opening an investigation to address these very important issues and looks forward to working with the Commission and all stakeholders as necessary to ensure that the Pennsylvania retail market is fully open to competition and, therefore, providing consumers the absolute best that competition has to offer.

Respectfully submitted,

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