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November 3, 2011

VIA ELECTRONIC FILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

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

Dear Secretary Chiavetta:

Pursuant to the Commission's Tentative Order entered October 14, 2011 in the above-referenced proceeding, enclosed herewith for filing are the Comments of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company.

Please contact me if you have any questions regarding this matter.

Very truly yours,

Tori L. Giesler

dlm
Enclosures

c: Via Electronic Mail:
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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

COMMENTS OF METROPOLITAN EDISON COMPANY, PENNSYLVANIA ELECTRIC COMPANY, PENNSYLVANIA POWER COMPANY AND WEST PENN POWER COMPANY

I. INTRODUCTION AND BACKGROUND

On October 14, 2011, the Pennsylvania Public Utility Commission ("Commission") entered a Tentative Order in the above-referenced matter seeking comments regarding intermediate recommendations presented by the Commission's Office of Competitive Market Oversight ("OCMO") concerning the format and structure of electric distribution companies' ("EDCs") upcoming default service plans ("DSPs"). The recommendations tentatively adopted by the Commission are intended to: (i) ensure that the upcoming DSPs do not hinder the ability of the Commission to implement changes addressed within the Retail Markets Investigation at the above-captioned docket ("Investigation"); (ii) advise EDCs and other parties that they will be expected to amend proposed DSPs when possible to incorporate changes which may arise out of the Investigation; and (iii) provide guidance on DSP components that the Commission believes can better facilitate the competitive marketplace. The Commission directed that comments be submitted within twenty days of the entry of the Tentative Order.[1]

Metropolitan Edison Company ("Met-Ed"), Pennsylvania Electric Company ("Penelec"), Pennsylvania Power Company ("Penn Power") and West Penn Power Company ("West Penn")

[1] Tentative Order at Ordering Paragraph 2.

(collectively "the Companies") respectfully submit the following comments regarding the Tentative Order's recommendations and also include comments on the Companies' current plans to include certain of the Commission's recommendations in their upcoming DSP filing. In light of the procedural timeline necessary for approval of DSPs and the time needed to implement the approved DSPs before the first procurement, the Companies have been actively preparing their respective DSPs ("Plans"), which they anticipate filing in November 2011, for service beginning on June 1, 2013.[2] Because the Companies anticipate filing their Plans in the near term, they are in a position to provide some insight into the anticipated impact of direction provided in the Tentative Order to those Plans.

II. COMMENTS

A. Default Service Plan Time Period

In its Tentative Order, the Commission recommends that EDCs file DSPs that run for two years, with a service period that is synchronous with the PJM Interconnection, L.L.C. ("PJM") planning year spanning June 1st through May 31st.[3]

The time and expense associated with developing, obtaining approval of, and implementing a DSP is not immaterial. An EDC's preparation and support of a DSP results in an expense that is ultimately borne by its default service customers. Additionally, significant time and expense is incurred by interveners to the DSP filing, including consumer representatives, consumer groups, electric generation suppliers ("EGSs"), and the Commission. As such, it is in all parties' interests to minimize such time and expense whenever possible. The Companies

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[2] The Companies need to file their proposed DSPs approximately 11-12 months prior to the first planned procurement in order to provide for the nine-month Commission proceeding as well as about 2-3 months for the appeal period to run, to incorporate any necessary changes in products or rules pursuant to the Commission's final order, and for marketing of the initial procurement, bidder education, bidder satisfaction of credit requirements, etc.
[3] Tentative Order at 4.

believe that a two-year DSP may result in a period that is too short, causing all parties to unnecessarily expend DSP-related time and money on a more frequent basis.

Moreover, a shorter term may not provide a reasonable opportunity to learn from the actual operation of the default service procurements and incorporate that experience in future plans. If DSPs were to run for only two years, the program filings for the subsequent set of plans would need to be made by November of the year in which the current plan would be starting. By that time, the two-year plans approved in the previous case would just be starting and, therefore, may not provide for a realistic opportunity to implement lessons learned based on actual experience. This is especially important if the Commission approves new programs such as customer referral programs and opt-in auctions for inclusion in the next default service plan. The extra year afforded by a three-year default service term would enable the Companies to base their subsequent plan filings on about one year's experience with their current plans.

For these reasons, it would be the Companies' preference to establish a three-year time period for DSP plans going forward. However, in light of the Commission's ongoing Investigation and recommendation for a two-year program within the Tentative Order, the Companies are willing to adopt the recommendation that two-year plans be proposed and, as such, anticipate proposing Plans that are two years in duration in their upcoming filing.

B. Energy Contract Durations

The Commission recommends that EDCs limit or eliminate the existence of short-term energy contracts extending past the DSP end date. Further, the Commission recommends that EDCs limit the proportion of long-term contracts in the DSP, and that EDCs consider using existing long-term contracts from previous or presently-effective DSPs to satisfy compliance with the long-term contract mandate of 66 Pa.C.S. § 2807(e)(3.2)(iii).[4]

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[4] Tentative Order at 5.

The Companies agree that, to the extent possible, short-term energy contracts should not extend past the end date of the DSP. Regardless of the current status of the Investigation, such a recommendation helps to provide a clean separation from one DSP to the following DSP. The Companies would point out that Commission's recent review and modification of both its regulations and policy statement pertaining to default service clarified that a short-term contract is to be defined as a contract that is of four years' duration or less.[5] Therefore, EDCs are clearly permitted to propose two-year contracts, which still qualify as "short-term" under Section 2807 of the Public Utility Code, which does not specifically define the duration of short-term contracts.

Also, it should be noted that the long-term contracts entered into pursuant to Commission authorization in order to achieve compliance with the Alternative Energy Portfolio Standards Act, 73 P.S. § 1648.1, *et seq.*, will extend past the end date of the DSP. This is certainly true for the Companies, where a merger settlement commitment to procure 40% of the solar requirements using long-term contracts of ten years' duration was approved by the Commission in the FirstEnergy/Allegheny Energy merger approval proceeding at Docket Nos. A-2010-2176520 and A-2010-2176732. As such, the EDCs must be permitted to enter into these contracts to fulfill these previously-approved commitments, and also remain entitled to full recovery of any contract costs that extend past the end date of their respective DSP, regardless of whether the contracts are considered short-term or long-term contracts. Because Met-Ed, Penelec, and Penn Power recover the costs of long-term contracts associated with AEPS compliance on a competitively-neutral basis, and the same will be proposed for West Penn Power in the

[5] Implementation of Act 129 of October 15, 2008 -- Default Service and Retail Electric Markets, Docket No. L-2009-2095604, Final Rulemaking Order at 23 (Order entered October 4, 2011); Proposed Policy Statement Regarding Default Service and Retail Electric Markets, Docket No. M-2009-2140580, Final Policy Statement at 10 (entered September 23, 2011).

upcoming filing. Therefore, the Companies do not see this as affecting any future market enhancements.

With the exception of the long-term solar requirements contracts procured pursuant to the Companies' merger settlement obligations noted above, the proposed Plans the Companies anticipate filing for the service period beginning June 1, 2013 will not include contracts that extend beyond the life of the two-year Plans.

C. Retail Opt-In Auction

The Commission recommends that EDCs incorporate an opt-in auction program within their DSPs. While the Commission states that it will not propose a particular format for the opt-in auction, the Commission recommends that EDCs use the format currently under discussion within the stakeholder sub-group as a starting point, "when it is finalized."[6]

It is the Companies' position that, although the opt-in auction format being discussed by the stakeholder sub-group can be used as a starting point, all aspects of the format need not be used by the EDCs. In other words, the EDC should have the flexibility to design an opt-in auction to best fit within the parameters of its DSP and to be in the best interests of the EDC's customers. Such a design may include certain aspects of the stakeholder sub-group format, but it should not be required to incorporate <u>all</u> aspects of the format. The EDC should be permitted the flexibility to include aspects which it deems appropriate, but exclude or alter other aspects which it deems inappropriate, inconsistent, or misplaced within the context of its respective DSP. Such flexibility is consistent with the Commission's recommendation to provide the EDCs with the flexibility to craft a DSP filing in a manner in which they deem appropriate and that will provide benefits to their customers.[7]

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[6] Tentative Order at 5-6.
[7] Tentative Order at 4.

For instance, the Companies do not believe that it would be appropriate for the Commission to order EDCs to support short-term "teaser rates" or "marketing gimmicks" in the form of cash incentives, etc., to those customers who opt in. Because these measures can be followed by volatile or higher rates once the initial rate expires, it is the view of the Companies that such offerings could damage the trust the Companies have earned from their customers and result in increased customer complaints and call volume directed to call centers which are tasked with fielding customer contacts associated with the core business functions of the EDC. The requirement to provide such "incentives" also could result in increased customer prices and higher costs to the EDC in managing customer unrest. The Companies' experience thus far has indicated increased call volume and customer concerns regarding short-term variable rates that have been offered by EGSs which have quickly turned into prices that exceed the utilities' default service rates. The Companies do not wish to impose upon themselves the responsibility that would come with being forced to connect their customers with such offers.

The Companies also point out that EDCs must be provided with full and current cost recovery associated with the administration of any opt-in program they might propose. The administration of such a process would certainly prove costly, and it would be inappropriate and unlawful to require an EDC to funnel customers through this method on the behalf of EGSs without an opportunity for full and current recovery of its costs associated with doing so. Therefore, an EDC must be entitled to full and current cost recovery through a competitively-neutral, non-bypassable automatic adjustment rider.

Consistent with the points made in these comments, the Companies anticipate proposing an opt-in offering for non-shopping residential customers in their upcoming DSP Petition and direct testimony. The opt-in proposal contemplated would include cost recovery through a rider as described above. This proposal will likely be comprised of a declining clock auction held to supply a specified product without any market enhancements. Once the auction clears, the Companies would provide to customers the ability to opt in to the offering through a mailer during a specified period of time, which would enable customers to select this option to begin receiving service effective with their June 2013 meter read date.

The Companies do, however, object to the implementation of any opt-in auction prior to June 1, 2013. To implement such an offering would present a regulatory risk not anticipated by the Companies' current wholesale suppliers, which could result in either higher prices or less interest by suppliers in future default service auctions. The very concept of default service, as it is contemplated by statute and by this Commission's regulations, rests on a presumption of regulatory stability, which stability is crucial to encouraging wholesale suppliers to participate in the auction process. To introduce an entirely new form of customer migration in the midst of an existing default service period adds unforeseen regulatory risk, which could hinder wholesaler participation for years to come. Any damage to this participation would likely translate to increased costs to the detriment of default service customers.

D. Referral Program

The Commission urges EDCs to incorporate a referral program within their DSPs. While the Commission states that it will not propose a particular format for the referral program, the Commission recommends that EDCs use the format currently under discussion within the stakeholder sub-group as a starting point.[8]

In its Tentative Order, the Commission recognized that customer referral programs can be viewed on a sliding scale. At one end, referral programs could include EDCs advising customers that they can shop with potential benefits and direct customers interested in shopping to the Commission's PApowerswitch.com website. The Commission states that another referral

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[8] Tentative Order at 6.

possibility could be one where EDCs assist customers in actually enrolling with an EGS by offering some form of a standard offer product.

As with the retail opt-in auction, the Companies believe that the format being discussed by the stakeholder sub-group can be used as a starting point but that EDCs should not be required to incorporate all aspects of the format. The EDC should have the flexibility to design its referral program to best fit within the parameters of its DSP, recognizing the capabilities or limitations of existing systems to implement such programs, and to be in the best interests of its customers. Such a design may include certain aspects of the stakeholder sub-group format, but it should not be required to use all aspects of the format. The EDC should be permitted the flexibility to include aspects which it deems appropriate, but exclude or alter other aspects which it deems inappropriate, inconsistent, or misplaced within the context of its DSP. Such flexibility would include the types of calls during which customers would be referred to an EGS, as certain telephone calls to the EDC (e.g., calls associated with an outage) would be an inappropriate basis for a referral program. Flexibility is consistent with the Commission's recommendation to provide the EDCs with the latitude to craft a DSP filing in a manner in which they deem appropriate.[9]

Additionally, EDCs must be provided full and current cost recovery associated with implementing such referral programs when proposing them as part of their DSP. Referral programs transfer responsibility for certain marketing functions and costs from the EGS to the EDC. An EDC must not be required to shoulder this responsibility without the opportunity for full and current cost recovery through a competitively-neutral mechanism. Such an approach must guarantee recovery of all costs associated with a customer referral program, including, but

[9] Tentative Order at 4.

not limited to, increased call center activity, investments in technology systems, and increased administrative responsibilities associated with designing and administering such programs.

Aside from costs arising from increased call center activity, it is also important to appropriately modify call center metrics measured and monitored by the Commission and addressed in prior stipulations and orders approved by the Commission to ensure reasonable expectations are placed on EDC call centers in light of this increased volume. The additional activity that will result from any referral program will likely increase the length of customer calls wherein the referrals are made. It is also likely that additional calls will be made by customers as they seek to understand the offerings or have questions regarding the program's implementation. All of these activities will increase the burden on existing EDC call center resources. Therefore, appropriate adjustments limiting those benchmarks against which EDCs are measured need to be made to take into account the increased call times and volumes that such programs will create and the potentially adverse impact on the average speed of answer and other call center metrics that will likely result.

Finally, as with the opt-in auction recommendation, the Companies strongly recommend that the Commission not order EDCs to facilitate, by referral, short-term "teaser rates" or "marketing gimmicks" that could damage the trust that an EDC has worked to earn from its customers, and result in increased customer complaints and call volume, diverting call center operations away from their primary business responsibilities. The Companies have concerns that short-term variable rates offered by EGSs can quickly turn into prices that exceed the utilities' default service rates, thereby increasing the likelihood of increased call volume and customer concerns regarding these rates. While it is neither the Companies' intent nor desire to have EDCs or the Commission regulate competitive offerings, EDCs should not be forced to recommend to their customers short-term teaser rates that could result in long-term costs to customers, while also placing potential liability on the EDC by virtue of its role in offering the recommendation.

In their upcoming DSP filing, the Companies anticipate proposing a customer referral program applicable to non-shopping customers, whereby the EDC would inform customers of the certain available offers, and would anticipate providing such information to new mover and high bill complaint callers. Each EGS serving the respective company's territory would have an opportunity to present an offer at a predetermined interval of time (i.e., weekly or monthly) for a standard product with multiple terms. Upon receipt of these presentations, the EDC would offer, for the duration of the assigned period of time, the lowest offer to those customers who were interested in a referral. In order to provide the Companies with full and current recovery of the costs associated with this proposal, the Company will propose such recovery through a non-bypassable, competitively-neutral automatic adjustment rider. The Companies also believe that they should be provided relief with regard to the call center metrics as described above.

E. Time of Use Rates

The Commission recommends that EDCs contemplate contracting with a retail EGS to help satisfy the statutory requirement for default service providers to offer time-of-use ("TOU") rates.[10]

The statutory requirement for the default service provider to offer TOU rates presents certain challenges with regard to the current retail electricity market. Because TOU rates are an alternative to standard default service rates, they can be viewed as in direct competition with retail EGS offerings. Additionally, there is ambiguity with regard to the reconciliation of TOU expenses and revenues, and whether the EDC is able to fully recover all TOU-related expenses. Therefore, the Companies agree that a reasonable solution is to contract with a retail EGS to

[10] Tentative Order at 7, citing 66 Pa.C.S. § 2807(f)(5).

satisfy the statutory requirement that a default service provider offer TOU rates. In their upcoming DSP filing, the Companies anticipate proposing a TOU rate that is supplied in the manner recommended by the Commission and described above via a declining clock auction that would be sourced annually, rather than providing this rate as a product offered directly from the EDC.

F. Default Service Rate Adjustment Structure – Residential and Small Commercial

The Commission recommends that EDCs contemplate the incorporation of semi-annual default service rate adjustments within their next DSP.[11] As the Commission correctly indicates in its Tentative Order, default service rates are currently reconciled on a quarterly basis, consistent with its regulations; therefore, a waiver of its regulations specifying these quarterly adjustments at 52 Pa. Code § 54.187(h) and (i) is needed if the EDC provides sufficient reasoning for implementing a semi-annual adjustment.[12]

Adjustments to the default service rate on a less than quarterly basis could result in a larger reconciliation balance of default service costs, either as a larger under-collection or a larger over-collection, which ultimately may result in a larger fluctuation for the customer, and in increased customer confusion when these rate fluctuations occur. Further, the Commission's regulations at 52 Pa. Code § 54.187(f) require that under-collections accrue interest at the legal rate of interest,[13] whereas over-collections accrue interest at the legal rate of interest plus two percent. This asymmetrical treatment of interest, when paired with a lengthier adjustment period, would create a recovery risk for the EDC due to the need to carry larger reconciliation balances for a longer period. Therefore, absent a waiver of the Commission's regulations at 52 Pa. Code § 54.187(h) and (i) <u>and</u> 52 Pa. Code § 54.187(f), there would be unnecessary exposure

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[11] Tentative Order at 7.
[12] Tentative Order at 7-8.
[13] 41 P.S. § 202.

to EDCs, which generally would prevent the Companies from proposing a change from quarterly to semi-annual rate adjustments. Unless the Commission were willing to recognize this incongruous treatment and provide some assurance to EDCs, via a waiver of Section 54.187(f), (h) and (i) of the Commission's regulations, that they would not be required to bear the additional interest costs that could result from the lengthier time between reconciliations, the Companies do not support this recommendation. For these reasons, the Companies do not anticipate proposing semi-annual reconciliations in lieu of quarterly rate adjustments in their upcoming DSP filing.

G. Hourly-Priced Default Service for Medium Commercial and Industrial Customers

The Commission recommends that EDCs contemplate expanding hourly-priced default service to the medium sized commercial and industrial class, which are generally customers with demands greater than 100 kW but less than 500 kW.[14] Met-Ed and Penelec currently provide hourly-priced service to customers with demand greater than 400 kW, while West Penn provides hourly-priced service to customers with demand greater than 500 kW. Penn Power offers hourly pricing to all of its transmission and primary voltage customers.

The ability of an EDC to bill an hourly-priced service is predicated on the existence of an interval-recording meter or a smart meter. Smart meters have not been deployed to the Companies' service territories at this time. In fact, deployment of smart meters will not begin until the Commission approves smart meter technology and installation plans for the Companies, required as a result of the smart metering requirements outlined in Act 129 of 2008, which are to be filed by June 2012. These smart meter technology and installation plans undergo several months of regulatory review prior to approval, a timeframe which will likely extend into 2013. Although this smart meter deployment strategy is not yet known or approved by the

[14] Tentative Order at 8.

Commission, it would be imprudent to assume that all medium-sized commercial and industrial class customers will receive fully-functioning smart meters in the very brief timeframe between Commission approval and June 1, 2013.

Additionally, the overwhelming majority of medium-sized commercial and industrial class customers served by the Companies do not have an interval-recording meter. This means that the Companies would need to expend millions of dollars[15] to install interval-recording meters simply to be equipped to offer an hourly-priced default service to a population of customers that the Commission acknowledges is already experiencing a significant level of electric shopping.[16] The Companies believe that this would not be a sound metering strategy because it will likely result in a stranded meter investment in light of the smart metering requirements of Act 129 of 2008. The mass deployment of interval-recording meters prior to smart meters will almost certainly result in a stranded investment that must be included for recovery in the smart meter technology and installation plans, because the interval-recording meters likely will not be fully depreciated before smart meters are deployed. Because the cost of the Companies' smart metering plans will likely be in the hundreds of millions of dollars, it is important to limit unnecessary additional expenditures that will escalate the cost ultimately borne by ratepayers.

The Companies also reiterate that, as the Commission itself has pointed out,[17] the majority of these customers are shopping today. The contractual relationship between an EGS and a customer is based in part on the use of an EDC load profile for the customer. The installation of an interval meter for that customer will result in the customer's usage being settled

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[15] The Companies estimate that it would cost approximately $8.5 million to install the necessary interval meters to support hourly pricing to such customers that do not currently have them, as well as an additional $1.4 million annually for communications costs to support the meters.
[16] Tentative Order at 8.
[17] Tentative Order at 8.

at PJM pursuant to the customer's specific profile, rather than the generic profile provided by the utility, upon which the EGS contract could have been based. While utilizing customer-specific data for settlement is generally viewed as an improvement, causing the underlying cost of service to be changed during the course of an EGS contract could cause financial harm to one or both parties to the contract and would be entirely inappropriate.

In addition, this recommendation conflicts with the Commission's own previously-issued guidance, which failed to implement hourly pricing to customers with demand below 500kW in recognition of the sanctity of the EDCs' existing rate schedules.[18] At that time, the Commission recognized that to require a break for hourly pricing to customers with demand of 100kW or higher would lead to significant information technology programming costs, and therefore was not worthwhile from an implementation standpoint. This same point holds true today, although arguably even more so with the impending deployment of smart meter technologies. Indeed, the Commission recently revisited its policy statement at 52 Pa. Code § 69.1805 and declined to suggest that hourly pricing be extended to those customers with demand of 100 kW or higher.[19]

Therefore, the Companies recommend that the expansion of hourly-priced default service should only be contemplated if the respective customer class currently has interval-recording meters, or after all customers of the respective class have received smart meters. For these reasons, the Companies will not provide an hourly-priced product in response to this recommendation in their upcoming DSP filing.

H. Future Issues Identified Within the Investigation

The Commission reminds EDCs that any issues addressed and resolved in the Investigation may be recommended or directed for incorporation within pending or approved

[18] 52 Pa. Code § 69.1805(3).
[19] Proposed Policy Statement Regarding Default Service and Retail Electric Markets, Docket No. M-2009-2140580 (Final Policy Statement entered September 23, 2011).

DSPs. It is impossible for the Companies to provide comments regarding such potential issues that are unknown at this time because they can encompass a wide array of issues that may be unknown at this moment and uncertain to the extent that they can be included within pending or approved DSPs. Therefore, the Companies urge the Commission to provide an opportunity for comments, modification, or exemption based upon the nature of such issue(s), whether they can feasibly be incorporated into a DSP, and the associated costs involved in implementing the issue(s).

The Companies also reiterate that the implementation of any additional recommendations to the existing, approved DSPs prior to June 1, 2013 could likely prove problematic and detrimental to the regulatory stability realized by default service ratepayers. To implement many of the discussed "market enhancement" recommendations before that time would pose a regulatory risk not anticipated by wholesale suppliers currently supplying the Companies' default service load, leading to a risk of less interest in future default service auctions, or the future presentation of less favorable bids. As noted earlier, default service, as it is contemplated by statute and by this Commission's regulations, is premised upon the belief that it offers a substantial degree of regulatory stability, which encourages wholesale suppliers to participate in the auction process. Forcing unanticipated market enhancements that have the potential to upset this stability and the default auction process would be imprudent, contrary to the best interests of the Companies' ratepayers, and could potentially stymie wholesaler participation in these auctions for years to come.

III. CONCLUSION

Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company appreciate the opportunity to provide comments on the proposed intermediate recommendations presented by the Office of Competitive Market Oversight and tentatively adopted by the Commission regarding the format and structure of default service plans, as well as to describe how some of these recommendations are anticipated to be incorporated into their upcoming Plans.

Respectfully submitted,

Dated: November 3, 2011

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the foregoing document upon the individuals listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

Service by first class mail and electronic mail, as follows:

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Dated: November 3, 2011

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