ECKERT SEAMANS

Eckert Seamans Cherin & Mellott, LLC
213 Market Street - 8th Floor
Harrisburg, PA 17101

TEL 717 237 6000
FAX 717 237 6019
www.eckertseamans.com

Daniel Clearfield
717.237.7173
dclearfield@eckertseamans.com

January 17, 2012

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 Direct Energy Services LLC ("Direct Energy") enclosed please find the original of its Comments to the Tentative Order of December 16, 2011 along with the electronic filing confirmation page with regard to the above-referenced matter.

Sincerely yours,

Dan Clearfield

Daniel Clearfield, Esq.

DC/lww
Enclosure

cc: ra-RMI@state.pa.us w/enc.
Karen Moury (via email only) w/enc.
Daniel Mumford (via email only) w/enc.
Kirk House (via email only) w/enc.

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

COMMENTS OF
DIRECT ENERGY SERVICES, LLC
IN RESPONSE TO THE TO THE DECEMBER 16, 2011 TENTATIVE ORDER

Daniel Clearfield, Esquire
Attorney ID #26183
Deanne M. O'Dell, Esquire
Attorney ID #81064
Eckert Seamans Cherin & Mellott, LLC
213 Market Street, 8th Floor
Harrisburg, PA 17101
(717) 237-6000 (phone)
(717) 237-6019 (fax)

Date: January 17, 2012

Attorneys for Direct Energy Services, LLC

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I. INTRODUCTION

In its December 16, 2011 Tentative Order, ("T.O.," "Order" or "Tentative Order "), the Pennsylvania Public Utility Commission ("PUC" or "Commission") sought public comment on the proposed intermediate work plan developed by its Office of Competitive Market Oversight ("OCMO"). Direct Energy Services, LLC ("Direct Energy") hereby submits its comments to the T.O.

While Direct Energy commends the Commission for its continued efforts to seek to improve retail electric competition in the Commonwealth, modifications need to be made to the initial recommendations in the T.O. if the Commission's goal of using interim competitive enhancements to "jump start" the markets in advance of implementing long term reforms to the existing default service structure is to be accomplished. While individual results vary, less than 30% of residential load (26.8%) are participating in the competitive market, as of January, 2012. This plainly indicates that action needs to be taken to move the remaining customers – almost two thirds of the total – to experience competition. Only by essentially reversing these shopping/not shopping statistics will competitors continue to participate in the Pennsylvania market in real and sustained ways, bringing new and innovative products, value added services, infusing the Pennsylvania economy with additional jobs and economic development. These actions will, in turn, spur more competitive choice, and the upward positive spiral will continue. But the first crucial steps is to put in place the short and long term programs that will make the Pennsylvania retail markets truly competitive. As detailed below, the Tentative Order makes a good start but falls short in several crucial respects.

II. REFERRAL PROGRAMS

A. The Proposed Interim "New Mover Program Will Not Sufficiently Advance Competition; Instead the "Standard Offer" Customer Referral Program Should be Expanded and Implemented in 2012.

One of the principal goals of the Commission's Referral Program interim competitive enhancement was to reverse the existing state of affairs in which:

> EDC-provided default service [is] the very first choice presented to Pennsylvania consumers. Assignment of customers to default service in the first instance has become automatic. This design flaw has led some to refer to our structure as a "supplier of first resort" model, not supplier of last resort as intended by Chapter 28.[1]

While we appreciate the PUC's attempt to identify a workable temporary solution via an interim "New/Mover" program, Direct Energy believes that the "hot transfer" process would have limited utility in reversing the "provider of first resort" status of default service. In Direct Energy's experience, especially in the current environment where customers are not fully aware of their competitive options, most customers who begin electric service do not have sufficient information at the time of their initial call to be able to sign up for service with an EGS. The T.O.'s suggestion[2] that the EDC will not be required or permitted to provide any EGS sales information and a customer could only be referred to the "PaPowerSwitch.com" website if he/she needed additional information would reduce the value of the "hot transfer" even further. Referring a customer to PaPowerSwitch.com will virtually guarantee that the consumer will not make a decision on the initial enrollment call, will likely simply "default" to "default" service. While the customer may at some point visit PaPowerSwitch.com, only then may he/she consider their competitive options by contacting an EGS.

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1 Interim Order at 16.

2 T. O. at 19.

While the hot transfer process might be usable as an interim, temporary approach to enrolling a moving EGS customer who wanted to maintain his/her service at his/her new location, it does not appear that the cost of creating and implementing a hot transfer process for all EDCs would be justified for this limited purpose.

The better course is to focus on implementing the Commission's proposed "Standard Offer" referral program ("SORP") in 2012 (rather than wait until the beginning of the EDCs' next default service plan period – June, 2013 – as the PUC has suggested). The SORP is an appropriate interim measure that could immediately start to reverse the "default service as the first choice" state of affairs. As noted below, Direct Energy finds the proposed SORP to be acceptable with some notable qualifications.

Separately, but equally important, in addition to whatever it decides regarding these two proposed interim solutions, the Commission should order that a permanent solution to the problem that "new/movers" are forced initially to take service from utility-provided default service be discussed in the RMI process, for decision at the same time that the Commission issues its order articulating its vision of the appropriate end-state default service model. The appropriate "end-state" or permanent solution would include:

- Directing that EDCs make the system modifications so that a person initiating service could be placed immediately on competitive service (without having to spend any billing cycles on default); and
- Creating a process whereby an undecided customer would have additional time in which to choose a competitive provider after the initial call or contact to initiate electric service. For example, if the customer did not affirmatively choose an EGS within a specified time window, he/she would be assigned randomly to a

participating EGS who agreed to provide service via some standard offer (e.g., a plain vanilla three-month offering with standard end-of-term contract renewal rules applicable). A third-party clearinghouse might also provide enrollment services (including enrollment with the utility) to all new or moving customers, taking that part of the customer experience away from the distribution utility.

The fact that new and moving customers are automatically placed on default service is a significant but frequently overlooked reason for the continued dominance of default service as the service of choice for the majority of residential and small business customers. (Recall that roughly 10% of all customers initiate service or move every year!) Any effort to make long term modifications in the present default service structure must deal with this issue in a way that breaks this "feeder source" for default service customers, many of whom, once assigned to default never participate in the competitive market.

B. The Commission's Proposed Standard Offer Referral Program Should be Implemented in 2012 and Modified to Make it Applicable to Small Business (25 kw and below) Customers.

Direct Energy supports the T.O.'s proposal to have EDCs include within their 2013 Default Supply Plan a "Standard Offer" referral program.[3] The SORP proposed by the Commission envisioned the following key elements:

- voluntary (i.e., customers would opt-in);
- percent off effective PTC;
- provided for three months;
- customers may choose one of the several participating EGSs or be randomly assigned;

[3] T.O. at 20-21.

- terms and conditions of the program must be presented before a customer decides to enter the program;
- SORP opportunity would be presented during all customer contacts (except termination, emergencies);
- no termination fee or penalty for cancelling (during the three month period); and
- absent affirmative action, customer remains with the SORP EGS on a month-to-month basis at the end of the initial three-month term.

Direct Energy endorses all of these terms and urges that they be incorporated into the final order. The Tentative Order should be modified, however, in two important respects:

1. <u>Standard Offer Customer Referral Programs Should begin in 2012</u>

While recommending that the "New/Mover" referral program could begin in 2012, the Commission suggested that SORPs should be a part of each EDC's 2013 default service plans, meaning that any such 'standard offer' program would not begin until June, 2013 at the earliest. There is no reason for this. A SORP has been successfully implemented in New York[4] and it was roundly endorsed by many of the stakeholders in the RMI process.[5] At least one utility indicated that it could implement a standard offer program within six months. There is no legitimate reason to hold off implementation, especially given the lack of other scalable competition enhancing steps in 2012 as currently proposed in the T.O. Accordingly, each EDC should be directed to file tariffs within 30 days of the entry of the PUC final order here, setting forth a SORP plan; the Commission should commit to reviewing and ruling on those tariffs and

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[4] T.O. at 9-10; Discussion Document: "Customer Referral Programs – New York Model." By Ron Cerniglia (of Direct Energy) (dated August 22, 2011).

[5] In fact, the OCA recommended that the Commission follow the format of the referral program that is used by Central Hudson Gas & Electric in New York. See RMI Final Order (entered December 16, 2011), at 40. While there is disagreement on the exact terms and conditions of the referral programs, the comments are generally supportive of such programs. Id., at 34-43.

plans within 60 days of such filing.[6] Each EDC should be ordered to place the SORP into effect as soon as possible but no later than the last quarter of 2012. If utilities nonetheless wish to propose different SORPs in the default service cases, they may do so but must show compelling evidence why any differences from the PUC recommended plan, as implemented in 2012, should be accepted.

2. <u>The standard offer referral program should be applicable both to residential and small business customers (25kw and below)</u>

While the Commission specifically extended the "New/Mover program" interim program to small business customers (characterized as those customers in the smallest general service business rate class), for some reason, it declined to extend the SORP in the same way. This is a crucial defect and should be corrected. The available shopping statistics indicate that the levels of shopping per small business customers in the small C&I class, and particularly in the 25kw and below category, are generally comparable to those of residential customers, with about 50% or less of the customers/load shopping.[7] For example, data provided by PPL during the Opt-In Auction Sub-Group process showed that just 33% of small commercial customers with peak loads of 25kw and below, and 48% by load, were shopping.[8] From all indications, these small customers have similar issues with respect to understanding and taking advantage of competitor service offerings. Accordingly, the SORP approach would provide valuable opportunities to small business customers and allow them to realize savings while at the same time becoming familiar with and accustomed to the competitive electricity market. There is simply no reason to

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6 Since this is a policy question there is no need for on-the-record hearings. If some party raises a contested issue of material fact the Commission should hold an expedited hearing within the 60-day timeframe.

7 See PAPowerSwtich Update for Wednesday, January 11, 2012; Comments of William R. Lloyd, Jr., Small Business Advocate, before the House Consumer Affairs Committee on Pennsylvania's Retail Electricity Market (August 2, 2011), at 1, which is available at: http://www.legis.state.pa.us/cfdocs/legis/TR/transcripts/2011_0064_0007_TSTMNY.pdf.

8 This data was provided by PPL to the Subgroup by email on September 29, 2011.

hold them out.[9] In order to focus on those customers who are shopping the least, Direct Energy proposes that the Commission order the extension of the SORP to customers with peak loads no greater than 25kw.

III. OPT-IN AUCTIONS

A. Introduction

The Commission is to be commended for recommending that each EDC include within its 2013 DSP plans a proposal for opt-in auctions. Many stakeholders in the RMI process indicated that an opt-in auction provided an excellent opportunity to "jump start" the competitive market and to get large blocks of customers familiar with competitive alternatives.[10] Thus the opt-in auction serves as an important "bridge" to facilitate the transition to longer term default service reforms designed to create a truly and robustly competitive retail electric market. The Commission's general comments on opt-in auctions appear to recognize the enormous positive potential for this interim competitive enhancement. However, in several respects, the Commission's specific proposals for structuring the auction process could diminish the value of the opt-in auctions to customers and to reduce participation by both EGSs and customers alike. To be clear, initiating this program will not come without a cost; Direct Energy has always believed, however, that if structured properly, the benefits to competition would outweigh the costs. However, in several different areas, the Commission has opted for an auction structure which calls this conclusion into question: 1) the suggested limitation of the auctions to residential customers; 2) the recommendation that no pilot opt-in auctions be undertaken; 3) the

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9 As discussed below, some of the utilities may argue that they cannot identify existing small business customers in the 25kw and below bucket. While Direct Energy is proposing that situation be remedied in the context of opt-in auctions, this is not an issue with respect to SORPs, as the companies presumably have data that can be accessed to identify small business customer that fall into the 25kw classification when the individual small commercial customer calls to initiate service, move service, etc.

10 See Final Report of the Retail Opt-In Auction Subgroup (dated November 30, 2011).

recommendation that an auction/RFP process could take place prior to the time that customers enroll and prior to EGSs knowing how many customers are actually participating; 4) permitting the option to the EDCs to choose between proposing either a fixed rate product with a bonus <u>or</u> a percent off rate without a bonus rather than specifying the fixed rate/bonus approach; and 5) permitting customers who are already shopping to take advantage of the special opt-in auction opportunity. In addition, the Commission failed to make clear its preference with respect to another crucial point necessary to make the auctions viable: that the product offering must be communicated to customers <u>by the EDCs</u> – not the EGSs. Each of these issues is discussed below.

1. <u>The opt-in auction should extend both to residential and small business customers</u>

Even while it decided that the "New/Mover" customer referral program should apply to small business customers in the smallest commercial rate class, the Commission inexplicably decided to recommend that only residential customers be subject to the opt-in auctions. Limiting the opt-in auctions to residential customers does not appear justified in light of the shopping statistics, reflecting a similar reluctance by small commercial customers to try the competitive market.[11] Small business customers in the 25kw or below category are shopping just about as much as residential customers in most service territories. The PUC's observation that "most if not all small C&I consumers are also residential consumers at their homes . . ."[12] actually provides support for extending the opt-in auction to small business customers – not for eliminating them. This fact likely indicates that these small business owners may similarly be uncomfortable with the competitive market for reasons that can be ameliorated with appropriate

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11 See discussion supra.

12 T.O. at 24.

action by the PUC. Or, they may have similar ignorance about how to access the savings available in the competitive market. There has been no evidence presented in the course of this investigation to support the conjecture that a residential referral plan will increase participation in the competitive market by small business customers at all, much less to a material degree. Why take the risk that this sector will continue to be underserved when there is a quick and easy opportunity to expand their competitive options through the opt-in auction?

The EDCs that have expressed concern about extending the opt-in auction to small business customers have done so mostly on the ground that they claim not to be able to readily identify small commercial customers with loads of 25kw or below. However, at least one EDC – Duquesne – indicated during the RMI process that it does have those data. For the others, Direct Energy does not believe that it would be a burdensome task to identify such customers. The EDCs plainly have such data for each customer. They need only create a list of customers whose usage data shows that they have peak demands of 25kw and less. It would appear that such data is readily available, since several of the EDCs, including PPL, were able to provide shopping statistics using these criteria.[13]

It is important to understand that the exclusion from the auction of the small commercial customer class not only robs this class of a significant potential savings opportunity but also reduces the value of the opt-in auctions to EGSs. This decision as well as several others would make the opt-in auctions less attractive so that fewer EGSs would participate or those that would might do so less robustly. Given the amount of time and expense that will be expended to implement this interim competitive enhancement, every reasonable effort should be made to allow them to reach as many customers as possible. Failure to do so would represent a terrible

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13 See, footnote 8, supra.

"missed opportunity" to achieve the goals of the Choice Act and create a fully competitive market for business customers.

Therefore, Direct Energy submits that the PUC direct that the EDC opt-in auctions include 25kw and below peak demand small commercial customers.

Direct Energy believes that the 25kw or below definition, is the most reasonable and the one that identifies customers who clearly benefit from the auction process.

2. Pilot Programs.

The Commission has proposed that pilot auctions not be conducted because of their view that the pilots would "involve considerable effort by the EDCs and the EGSs" which might not be capable of being completed in 2012. Additionally, the Commission was concerned about whether any lessons learned from the pilots could be incorporated into the full scale auctions[14] and were reluctant to "tamper ... with current default supply contracts."[15] Direct Energy respectfully suggests that each of these conclusions is in error.

Conducting pilots, or, at the very least, one pilot, has a number of benefits. First and foremost, it could provide valuable information about whether the PUC proposed auction bidding process, enrollment rules, customer education and the like were effective and useful. Given the statewide nature of the opt-in auction process, the level of resources that will be expended and the number of customers potentially affected, conducting at least one "dry run" would appear to be minimally prudent.

Second, a pilot auction will play a valuable role in helping EGSs understand the value of the full scale auctions. Without such a pilot, EGSs will be forced to undertake a process of projecting and, frankly, guessing about the number of customers that might participate, and the

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[14] T.O. at 28.

[15] *Id.*

levels of discount that will be necessary in order to attract customers. Combined with the PUC's preliminary proposal that the auction itself be held before customers enroll, the lack of any pilot programs will create sufficient uncertainty among EGSs regarding the value of this program as a customer-acquisition opportunity. Even a single pilot in, for example, the FirstEnergy service territories would provide real information about customer interest in such process. If the opt-in auction pilot proved to be popular, this would undoubtedly create greater interest and participation in the full scale auctions.

Third, a modest pilot of, for example, 50,000 customers would mean more customers shopping sooner, and more savings to those customers. The additional shopping will mean that retail competition will be that much more successful. This would be especially useful in the FirstEnergy service territories where shopping lags way behind the other service territories. The average percentage of customers switching in the FirstEnergy service territories is just 15.75%[16] If a pilot in 2012 would increase these dismal results, then it would seem to be justified on that ground alone.

In terms of being able to use the lessons learned in the pilot process Direct Energy submits that it would be possible to conduct at least one pilot at the end of 2012, have the data available so that the FirstEnergy full scale pilot could be informed by the results. The record in the FirstEnergy default service proceeding could be reopened or a subsequent comment proceeding could be held so that the PUC could adjust the opt-in auction to reflect the "lessons learned" from the pilot. The same is true for the other default service plans if more than one pilot were conducted. If a few key elements of the auction were left subject to pilot "learnings," such as the structure or timing of the offer or the auction, there should be sufficient lead time to

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16 PAPowerSwtich Update for Wednesday, January 11, 2012. 15.75% is the average of Met-Ed (9.3%), Penelec (14.6%), Penn Power (23.3%) and West Penn Power (15.8%).

adjust the full-scale auction procedures in order to enhance the process and the chances that the auctions will be successful.

Direct Energy frankly must confess befuddlement about the comment that having a pilot in 2012 would somehow "risk tampering with current default supply contracts." Direct Energy has repeatedly presented data which shows that that vast majority of wholesale supply contracts are "full requirements" contracts in which the supplier contractually agrees to bear the risk of shopping.[17] Customer migration due to an opt-in auction pilot is no different than customer migration spurred by the Commission's consumer education efforts or the "New/Mover" Referral Program, both of which are potentially to begin in 2012. Moreover, there is not a service territory in Pennsylvania where a small pilot of 25-50,000 customers per service territory would have any effect on "current," i.e., those that have already been enter into, default service contracts.[18] This is even more true in the FirstEnergy service territories, where shopping lags far behind the most active service territory (PPL) and well below the average levels.[19] Those

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17 See Comments of Direct Energy to the Tentative Order of October 14, 2011, at pp. 11-13, 17 and Appendix I (which is the detailed analysis provided by Analysis Group, on behalf of Direct Energy). On average, FirstEnergy uses block contracts for less than 10% of total forecast customer load. *Id.*, at Exhibits I-2.

18 The effect of switching on full requirements or blocks contracts should not be a legitimate concern. *See Comments of Direct Energy to the Tentative Order of October 14, 2011*, at pp. 11-13, 17 and Appendix I (which is the detailed analysis provided by Analysis Group, on behalf of Direct Energy). Full requirements contracts are not guaranteed any particular level of load, and (with the exception of Duquesne) none of the EDCs use block contracts to serve more than 51% of estimated residential load. *Id.* There is no chance that opt-in pilots would cause switching that would result in more than 50% of the existing default service load to switch to competitive supply. *Id*; PAPowerSwtich Update for Wednesday, January 11, 2012.

19 Shown below is the effect on shopping levels that would occur in the FirstEnergy service territory if a Pilot conducted in 2012:

	Existing Switching			**Proposed Opt-In Pilot Program**	
	Total Customers (Estimate)	**# of Switching Customers***	**% of Switching Customers***	**Pilot Size/ Switching Increase**	**Total % of Switching Customers**
Met-Ed	483,548	44,970	9.3%	50,000	19.64%
Penelec	501,993	73,291	14.6%	50,000	24.56%

wholesale suppliers may have less load to supply – but that is exactly what they agreed to do when they entered into the contract: take the risk of greater or lesser shopping. Thus, a 2012 pilot would not in any way "tamper" with existing default service contracts.

Direct Energy, therefore, urges, that the Commission reconsider its decision and order that at least one pilot be conducted. Direct Energy suggests that the FirstEnergy service territory be used for this purpose as, generally, this territory has the least number of shopping residential and small commercial customers. The Commission should order FirstEnergy to file a pilot auction plan within 30 days of the entry of a final order here and to have it implemented in 2012.

3. Timing of Auction.

The T.O. proposes that, in order to present customers with an actual proposed price if they participate in the opt-in auction, the auction should take place first and then customers should be asked to enroll. Direct Energy submits that this order process is backwards (literally) and could have a negative effect on the performance of the opt-in auctions. Forcing EGSs to bid on a "price only" auction prior to knowing how many customers will be participating in the auction is an invitation to failure. Under the proposal in the T.O. with no pilot having been conducted and with no prior customer enrollment, EGSs will have no firm basis upon which to project the commercial value of the auction opportunity. This uncertainty will tend to make EGSs more conservative in a price-only bid, where they have no real sense of, for example, the total avoided acquisition cost enjoyed as a result of participating the auction. One way to solve

Penn Power	140,219	32,671	23.3%	25,000	41.13%
West Penn Power	613,690	96,963	15.8%	50,000	23.95%
	Average		**15.75%**		**27.32%**

* PAPowerSwtich Update for Wednesday, January 11, 2012. Such a maximum increase in shopping could not possibly be considered outside the risks that suppliers have already agreed to bear by agreeing to provide "full requirements" default supply.

this problem is by asking customers to enroll on the basis of a fixed bonus amount plus a promise that the commodity price will be below the existing price to compare. This is the approach that had been recommended by Direct Energy and several other EGSs during the RMI/Subgroup process.[20] Again, it is crucially important that the auction be structured in a way that will be attractive to EGSs so that a large number participate and bid aggressively. The only way to do that is to have customers enroll first so that the bid for a known group of customers can follow.

4. Product

The Commission has proposed that EDCs could utilize either a fixed price with a bonus or a percent off with no bonus structure as the auction "product." The fixed price with bonus is the far better approach. However, since the Commission has given EDCs the option of choosing this approach there is no certainty that it will be used. Moreover, the product structure is also extremely important. All of the evidence submitted in the RMI process indicated that customers would require a savings or bonus of about $10 a month before they concluded participating in the auction was a good idea.[21] That translates into a bonus of about $100-120. Failure to mandate a bonus robs the Commonwealth of considerable economic benefits. For example, if a bonus of $100 is provided to participating customers, and all 50% of the existing 2.5 million customers still being served by default service were to participate in the auctions, the result would be bonuses of over $185 million. These payments would have an enormously positive effect on the Pennsylvania economy.[22]

20 See Final Report of the Retail Opt-In Auction Subgroup (dated November 30, 2011).

21 Direct Energy Comments Following En Banc Hearing, at 2, n4.

22 The costs of the mailings as well as the rest of the program should be recovered via a nonbypassable distribution service charge just as the cost of statewide education programs have been recovered. In light of the significant consumer benefits, this cost recovery mechanism seems especially justified.

Permitting EDCs to conduct an auction without a bonus creates further concern that the auction will not be seen as attractive by customers such that fewer will participate than would for a known, up-front bonus payment. Also a bonus-less auction transforms the whole event into something very similar to the garden variety price discount offers that most EGSs use. Without the "buzz" of a onetime bonus it may be very difficult to obtain substantial participation without substantial marketing costs, which, again, reduce the value of program to EGSs and customers. In turn, the lack of bonus structure could very well discourage EGSs from even participating in the auction, especially if the auction itself occurred prior to the enrollment. Accordingly, the Commission should reverse its initial view allowing EDCs to offer a "percent off – no bonus" pricing structure and should instead direct that the auction "product" shall be a price with a bonus. The price should be the product of an auction or RFP process. Customers should be asked to enroll prior to the auction, with the representation that they will receive a set, known bonus and a price that is lower than the existing PTC.

5. <u>Customer Eligibility – Only Customers on Default Service Should be Eligible for the Opt-In Auction</u>

For the reasons stated in the Comments of RESA, Direct Energy concurs that the opt in auctions should be restricted to default service customers only. The entire purpose of the opt in auction process is to entice "sticky" default service customers to try the competitive market. Accordingly it is irrational to permit shopping customers to participate. To be clear, Direct Energy is not proposing to restrict a customer's right to switch back to default service and, if the enrollment window is still open, to participate in the auction. But any customer desiring to participate should be required to go through this process in order to be eligible.

6. The Commission Should Specify that the Opt-In Auction Offer Should be Provided Via an EDC Mailing

One issue that was discussed in the subgroup but was not mentioned in the T.O. is the question of who provides the opt-in auction offer – the EGS or the EDC. Again, if the opt-in auction is to be even remotely successful the offer must come from the EDC. If the EDC does not provide the mailing for the opt-in auction, then the solicitation runs the danger of being viewed by customers as just another EGS solicitation. Considering that these are customers who, for one reason or another, have resisted participating in the competitive market, it is hard to understand why a default service customer would suddenly participate in such circumstances when he or she has consistently failed to do so up to that point. A mailing from the EDC, rightly or wrongly, given the special status accorded the EDC by customers; is likely to be opened and read and the information to be considered to be more trustworthy than an offer from a (frequently unknown) marketer.

Moreover, the EDC mailing should be designed to make it as simple as possible for customers to opt-in. Return mail cards should be pre-populated with the customer information for each service address to which the cards are mailed so that customers need only check a box and return the card in order to participate. This is another area where the success or failure of the program could depend on something that appears to be a minor detail but in fact is not. The more hoops customers are asked to jump through in order to opt-in will materially reduce the number of customers who participate. The design and timing of the EDC mailing is another area where a carefully designed pilot program would provide invaluable information to those designing the full-scale auctions, especially as those will be one-time only programs. Failing to make the most of such an opportunity would be a disappointing waste of time and effort stakeholders would have put in to bring the program to fruition.

IV. CONCLUSION

The Commission's Tentative Order should be modified as set forth above.

Respectfully submitted,

Daniel Clearfield, Esquire
Attorney ID #26183
Carl R. Shultz, Esquire
Attorney ID #70328
Eckert Seamans Cherin & Mellott, LLC
213 Market Street, 8th Floor
Harrisburg, PA 17101
(717) 237-6000 (phone)
(717) 237-6019 (fax)

Attorneys for Direct Energy Services LLC

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