

610-929-3601

Tori L. Giesler, Esq.
(610) 921-6658
(610) 939-8655 (Fax)

January 17, 2012

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:
Intermediate Work Plan
Docket No. I-2011-2237952*

Dear Secretary Chiavetta:

Pursuant to the Commission's Tentative Order entered December 16, 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

dln
Enclosures

c: Via Electronic Mail:
Office of Competitive Market Oversight (ra-RMI@state.pa.us)
Daniel Mumford, Bureau of Consumer Services (dmumford@state.pa.us)
Kirk House, Office of Special Assistants (hhouse@state.pa.us)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Investigation of Pennsylvania's Retail Electricity Market:
Intermediate Work Plan** : : **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 December 16, 2011, the Pennsylvania Public Utility Commission ("Commission") entered a Tentative Order ("Tentative Order") in the above-captioned docket addressing the intermediate work plan from the Commission's Office of Competitive Market Oversight ("OCMO"). Topics addressed in the proposed intermediate work plan include: consumer education, accelerated customer switching timeframes, customer referral programs, retail opt-in auction programs, default service price to compare ("PTC") on customer bills, and mechanisms for increased electric distribution company ("EDC") and electric generation supplier ("EGS") coordination. With the Tentative Order, the Commission adopted OCMO's proposed intermediate work plan and issued the plan for public comment. The Tentative Order provided that parties interested in submitting written comments to the Tentative Order may do so no later than thirty days from the entry date of the order, with reply comments to be filed within fifteen days thereafter.

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

(collectively, "the Companies") respectfully submit the following comments in response to the Tentative Order.

II. COMMENTS

A. Consumer Education

As an intermediate step to educate customers about the process and benefits of switching to an EGS, the Commission proposed that three coordinated consumer education mailings to residential and small business electric customers take place in 2012. The first mailing, which was initiated through a Secretarial Letter issued on December 15, 2011, directed specified EDCs to produce and mail, no later than February 29, 2012, a Commission-endorsed postcard that encourages consumers to shop for an EGS and promotes the Commission's website for electric shopping, PAApowerswitch.com. The second mailing, which is anticipated to be mailed in May 2012, will consist of a large, tri-fold flyer that places a strong emphasis on PAApowerSwitch.com, provides consumers with a detailed walk-through of the steps involved in shopping for an EGS, and highlights the total savings that can be achieved when saving just a half cent per kilowatt-hour. The third mailing, which is anticipated to be mailed in early fall of 2012, will consist of a letter from the EDC that will encourage consumers to shop for an EGS, direct customers to PAApowerSwitch.com, include a list of frequently asked questions, and reinforce the notion that all consumers will continue to receive safe and reliable electric service from their EDC.

In an effort to increase commercial class shopping in addition to shopping within the residential classes, OCMO has set forth a proposal aimed at enhancing the shopping experience for small business customers. The intermediate work plan includes a concerted effort to work with the Office of Small Business Advocate and other business-related organizations to spearhead outreach to small business owners across the Commonwealth, as well pursue a process

whereby small business owners with demand up to 25 kilowatts will be able to obtain comparative pricing data, along with other terms and conditions from EGSs, via PAPowerSwitch.com.

To the extent that all costs associated with such educational efforts are fully recoverable where borne by the EDCs, the Companies support those items outlined within the proposed intermediate workplan. Specifically, the evaluation of consumer education efforts must include the cost of such an effort, how those costs should be collected, who should bear the cost responsibility, and when costs should be collected. These costs could range in the millions of dollars and are proportional to the frequency of the communication, with a biannual mailing having an expected cost of twice as much as an annual letter.

It is not clear from the Tentative Order whether the cost responsibility for all the communication efforts is solely on the EDC to collect from its customers or whether EGSs should bear a portion of the cost responsibility. However, because the Tentative Order states that “[t]he Commission anticipates that the affected EDCs will seek cost recovery in a future filing,”¹ one may assume the cost responsibility is on the EDC to collect from its customers until such time as the Commission clarifies whether there will be any cost offset provided by EGSs. Because such consumer education activities benefit customers and EGSs, the EDC must be authorized to *fully and currently* recover any and all costs it incurs for a consumer education program. The easiest way to implement such recovery is through the EDCs’ existing consumer education surcharges. The Commission should expressly authorize the affected EDC to recover the consumer education costs contemplated herein through the existing consumer education surcharge.

¹ Tentative Order at 6.

The Companies intend to use such an approach to achieve recovery of costs associated with the postcard mailer required by the Commission's December 15, 2011 Secretarial Letter. The Companies plan to reflect a reallocation of the 2012 budgeted dollars recovered by the existing customer education riders for Met-Ed, Penelec and West Penn to fund the mailing in their upcoming Consumer Education Plan 2012 budget filing, while Penn Power anticipates establishing a recovery rider through a compliance filing in accordance with its existing customer education plan to provide for the recovery of the costs of such a mailing. Additionally, the Companies recommend that if the Commission were to direct additional customer education efforts beyond those enumerated in the Tentative Order, it should do so by allowing the EDCs to recover the costs of those efforts through the existing customer education surcharge rider mechanisms, as described above.

Finally, regarding the third mailing or "EDC letter," consideration should be provided to the potential overlap of existing consumer education efforts that are currently underway, or that are to be implemented, by the EDCs. Examples of such consumer education efforts are the communications provided by West Penn pursuant to the settlement agreement approved in the merger of FirstEnergy Corp. and Allegheny Energy, Inc. ("Merger"),² and the communications required by the settlement agreements approved in the proceedings leading to the current Met-Ed, Penelec, and Penn Power default service plans.³ As a result of the obligations made by the Companies under these respective settlements, Met-Ed, Penelec, and Penn Power each send EDC letters twice annually notifying their residential and small commercial customers of available EGS offers that they may sign up for, while West Penn is obligated to provide the same materials

² *Joint Application of West Penn Power company doing business as Allegheny Power, Trans-Allegheny Interstate Line Company and FirstEnergy Corp. for a Certificate of Public Convenience under Section 1102(A)(3) of the Public Utility Code approving a change of control of West Penn Power company and Trans-Allegheny Interstate Line Company*, Docket Nos. A-2010-2176520 and A-2010-2176732 (Opinion and Order entered March 8, 2011).

³ *See* Docket Nos. P-2009-2093053 and P-2009-2093054 (Met-Ed and Penelec) (Order entered November 6, 2009); Docket No. P-2010-21576862 (Penn Power) (Order entered October 21, 2010).

on two separate occasions between the consummation date of the Merger and June 1, 2013. In these mailings, all EGSs serving in the respective territories are given the opportunity to provide an offer for inclusion, and the Commission's Office of Communications, EGSs that were signatories to the settlements, as well as the Office of Consumer Advocate ("OCA") and the Office of Small Business Advocate ("OSBA"), are given the opportunity to review and approve the EDC letter that is enclosed with these offers. The Companies believe there is no need to duplicate efforts and overwhelm the customer with similar or redundant messages. Therefore, to the extent that existing EDC communication programs deliver the same or similar messages, the Commission should be clear that the EDC need not provide duplicative, potentially less-effective messaging. Adoption of this recommendation will also help mitigate the magnitude of consumer education costs. Moreover, because the EDCs do not have unlimited mailing capabilities, latitude should be afforded to EDCs to adjust the month of mailing to effectively accommodate such initiatives due to the fact that preparation, planning, printing, and call center training must be coordinated to ensure a cohesive and successful communication effort at a reasonable cost.

B. Accelerated Customer Switching Timeframes

On November 14, 2011, at Docket No. M-2011-2270442, the Commission issued for comment proposed interim guidelines intended to facilitate the acceleration of a customer's switching process. The primary changes proposed by the Commission include: (1) the elimination of the ten-day waiting period that is currently initiated when the EDC sends a letter to a customer to confirm a change in that customer's EGS; and (2) the substitution of a standard, statewide account transfer letter for the current confirmation letter. On December 14, 2011, the Companies provided comments on these interim guidelines, advocating that: (i) to the extent that the ten-day letter is eliminated, any costs or liability for the unauthorized transfer of customers be strictly borne by EGSs rather than the EDC; (ii) EDCs be permitted to establish switching

deadlines that consider the EDC's operational limitations and which are to be outlined in their supplier support tariff; (iii) customer education measures be undertaken aimed at helping customers to understand the switching process and timeframe; (iv) EDCs be able to seek full and current cost recovery for any changes that are ordered to be implemented; and (v) consideration be given to the fact that smart metering technology has not only not been deployed in the Companies' territories, but also that it will not address some of the logistical issues associated with switching customers, such as billing limitations, etc. These comments were an expansion of the very brief comments the Companies filed on November 23, 2011 within their informal comments following the November 10, 2011 *en banc*. The Companies request that the Commission consider their previously-filed comments in the development of the final interim guidelines and for the purposes of this proposed intermediate workplan, and incorporate both their November 23, 2011 and their December 14, 2011 comments by reference herein. The Companies also plan to be active participants in the Commission's rulemaking to review and revise the switching regulations at 52 Pa. Code §§ 57.171 – 179, as anticipated by the Commission.

C. Customer Referral Programs

In the Commission's view, customer referral programs are intended to facilitate customer participation in the competitive market by having the EDC actively promote, and possibly even implement, the switching of customers to EGSs. Based upon a review of the comments and testimony presented during the Retail Market Investigation ("RMI"), the Commission tentatively finds that two types of customer referral programs will benefit the retail electric market. The first type, referred to as the "New/Moving Customer Referral Program," envisions that any time a new customer or customer moving within a service territory contacts an EDC's call center, that customer will be advised of EGS alternatives and market information. The second type, referred

to as the “Standard Offer Customer Referral Program,” involves voluntary participation by EGSs who agree to provide an administratively determined standard offer to participating customers. Such a standard offer typically provides for a percentage off an EDC’s PTC for a stated period of time.

The Companies will comment on both types of customer referral programs recommended by the Commission. Generally, the Companies are not opposed to the concept of a customer referral program if designed properly and, in fact, have already implemented a process by which customers are currently provided information regarding customer choice and are referred to PaPowerswitch.com when they call into the Companies’ call center. In addition, the Companies have included a competitive based customer referral program as part of their proposed 2013-2015 default service programs filed on November 17, 2011 (“Proposed DSP”),⁴ which program consists of the weekly solicitation of 12 and 24-month, fixed-price referral products from bidding EGSs, with the winning EGSs’ products to be offered to non-shopping residential customers that contact the Companies with certain types of concerns or questions.

However, to preface these comments, the Companies believe it is necessary to reiterate the primary role of the EDC. As the Commission is aware, the primary role of the EDC is its distribution service-related activities, including the provision of safe and reliable electric service, as well as to serve as the “conduit” for the provision of generation, whether such generation comes from EDC-procured default service or retail EGSs. The EDCs are not industry experts in marketing, nor should such a function be considered one of its primary roles. The requirement for the EDC to become a marketing arm for EGSs distracts the EDC from its primary role, especially when such a requirement has the potential to affect the customer service response abilities of its call center or, worse yet, affect the company’s ability to provide safe and reliable

⁴ Docket Nos. P-2011-2273650, P-2011-2273668, P-2011-2273669, and P-2011-2273670.

electric service due to the distraction involved in being an EGS marketing arm. Simply put, the EDC should not be placed in a position to implement an overly burdensome or costly customer referral program. To the contrary, although EDCs should provide a customer referral program in their upcoming default service plans as directed by the Commission in its Final Order entered December 16, 2011 in this docket (December 16 Final Order), EDCs should have the flexibility to design their referral programs to best fit within the parameters of their default service plan, to recognize the capabilities or limitations of existing systems to implement such programs, to be in the best interests of their customers, and to mitigate any potential disruption in the primary role of distribution utilities.

1. New/Moving Customer Referral Program

The Commission views the implementation of this type of customer referral program as a possibility in 2012. Additionally, although the program is referred to as “New/Moving Customer Referral Program,” the Commission believes this type of program can also be applied to any current default service customer who contacts an EDC call center for any reason other than emergencies. Accordingly, the Commission requests that parties comment on: (a) whether this program should be managed by existing EDC call centers, a contracted call center, a statewide call center, or a combination of any or all of the foregoing; (b) the types of calls which should and should not be used for the referral program; (c) whether the program should be open to both residential and small business/commercial customers; (d) whether there should be the opportunity for a “hot transfer” from the EDC call center to the EGS to facilitate the customer’s choice; and (e) whether the EDCs should be expected to provide information regarding existing EGS product offerings during a customer referral call.

a. 2012 Implementation

Aside from the foregoing concerns regarding the EDCs' role as a marketing arm for EGSs, the Companies have concerns with the view that such a program that is more extensive than what the Companies already do - as discussed above - can, or should, be implemented in 2012. There have been few details established as to the exact procedure that should be implemented. If such a program was easy to implement and universally agreed-upon, these details would have been a product of the RMI. However, due to the lack of a consensus RMI work product, it is clear that details regarding such a program are anything but universal and clear. EDCs must be given the time necessary to establish these details before a customer referral program can be successfully implemented.

Under the assumption that the Commission were to implement the New/Moving Customer Referral Program without detailed processes and procedures, the EDC would need to develop the details of its implementation plan, requiring determinations as to what processes would need to be changed or added, what systems would need to be changed or added, and how and when such changes could be integrated into the EDC's infrastructure. The diligence required by such an effort could take several months, followed by a filing with the Commission to obtain approval for the program. Following Commission approval, the EDC would then need to implement the changes to its infrastructure to accommodate the program. The full timeline, including EDC evaluation, regulatory approval, and EDC implementation could take a significant amount of time *after* the Commission issues a final order to this Tentative Order. After considering each of these required steps, EDCs could realistically expect an implementation date at or near June 2013, which is generally the start date of the EDCs' upcoming default service plans which, per the Commission's December 16 Final Order, must include a customer referral program. Therefore, it does not appear realistic to implement such a program in 2012 due to the lag that is inherent in implementing this initiative.

The Companies believe that the customer referral program included in their Proposed DSP is an effective means to accommodate the Commission's goal of facilitating customer participation in the competitive market, while simultaneously balancing the primary role of the EDC to provide distribution-service related activities, including the provision to provide safe and reliable electric service. Allowing the implementation of such a program to continue through the inclusion of a referral program in default service plans for the upcoming term also makes the most sense from a timing standpoint, as noted above. The Companies' proposed customer referral program is briefly described below as it pertains to each of the topics for comment. The Commission is encouraged to recommend the implementation of a similar program when it issues its Final Order following this comment period. Also, the comments provided with respect to the individual components of the proposed New/Moving Customer Referral Program are intended to be considered within the context of the discussion of specific components of any Standard Offer Referral Program as well.

b. Call Handling

With regard to the EDC advising customers of EGS alternatives and market information, such a discussion with the customer utilizes valuable EDC call center resources that may instead be required for customer emergencies. For example, a discussion with customers of EGS alternatives and market information using existing EDC resources will not only extend the duration of the call for EGS marketing purposes, but can delay the answering of other customers' calls waiting in the queue – calls that may pertain to distribution-related issues with the EDC, including emergencies. To help mitigate this issue, the EDC will either need to increase its call center resources or outsource the referral calls so that EGS marketing can be separated from distribution-related issues, both remedies of which come at an increased cost that would ultimately be borne by customers. The Companies are also not aware of any initiative by EGSs

to fund and manage a statewide call center, despite the fact that EGSs should realize additional available funds due to a reduction in their customer acquisition costs that will result from implementation of customer referral and other market enhancement programs. For the foregoing reasons, the Companies have developed a proposal included within their Proposed DSP wherein at the conclusion of designated customer service calls, the Companies' customer service representative will tell the caller that: (i) they have the ability to shop to reduce their price; (ii) numerous other EGS offers exist; and (iii) they can be transferred to a Customer Referral Plan implementation team, if interested. If they are in fact interested, the customer would then be transferred to a separate team, either outsourced or specially trained to field Customer Referral Plan calls. Doing so will allow the Companies to provide more accurate accounting for the costs of such a program, while also providing targeted skills-based training to a select segment of representatives in order to ensure effective messaging at a minimal disturbance to the remainder of the EDC's operations. The Companies have proposed to recover the cost of the customer referral program, including the cost of the Customer Referral Plan implementation team, from residential customers via the tariff Default Service Support Rider as a retail market enhancement.

c. Call Types

In their Proposed DSP, the Companies have proposed to implement a customer referral program for customers that either: (i) call the Companies with a new mover request; (ii) call the Companies with a high bill inquiry; or (iii) inquire about customer choice. The Companies believe that there are no other types of calls that should be included as part of such a program at this time. Further, any new mover, high bill, and customer choice calls that include referrals should be exempted from existing call center metrics and performance levels that the Companies are obligated to maintain pursuant to Commission order, as these calls will take longer than they

otherwise would without the presence of a customer referral program. The Companies should not be held responsible for this increase in call handling time.

d. Customer Target

The Companies' proposal in their Proposed DSP is targeted at non-shopping residential customers, which reflects the Companies' position at this time that non-shopping residential customers should be the target of the program. Small commercial customers would not be eligible for the proposed Customer Referral Program because such customers have widely-varying business usage patterns. For example, some of the largest companies in the nation can be considered "small commercial" customers if electrical usage is a defining criterion because telecommunication, wireless, cable and transit companies have tens of thousands of low-usage connections spread throughout the Companies' service territories. For these national accounts, it is very unlikely that the person contacting the EDC call center for a service related or billing issue is the same person that would make an electric commodity purchasing decision. Additionally, the Companies do not have rate schedules dedicated solely to a "small commercial" customer segment because the availability of non-residential rate schedules is usually determined by the amount of electricity the customer uses rather than the nature of the customer's business. Moreover, recent Pennsylvania shopping statistics illustrate that commercial customers are already shopping significantly more than residential customers. As of January 11, 2012, PaPowerSwitch shows that 62% of statewide commercial load is being served by an EGS in comparison to 27% of residential load. These figures support the argument that the focus of such customer referral programs should be on residential customers. Therefore, due to the ambiguity regarding what may or may not constitute a "small commercial" customer and the current successful shopping statistics for the commercial class, the Companies did not propose to include such customers in its customer referral program in their Proposed DSP and do not

believe that the benefits of offering one currently outweigh the administrative burdens that would result from including those customers as targets of this type of program.

Inasmuch as residential customers are not currently shopping as much as commercial customers, their calls will be targeted as part of the Companies' proposed program, regardless of whether they are enrolled in customer assistance programs ("CAP") or otherwise. Currently, CAP customers are not restricted from shopping in any of the Companies' territories, and the Companies believe that these customers stand to benefit from increased shopping in many instances. As such, it has been proposed in the Companies' customer referral program, that participating EGSs must accept any and all residential customers that elect to accept the referral offer, including CAP customers.

e. Hot Transfers

The Companies do not support the use of "hot transfers." Implementing such a transfer approach will only serve to increase call time while the EDCs' referral specialists explain the transfer to a specialist representing the EGS, resulting in both increased operational costs to be borne by customers, impacted call center metrics and longer call wait times than would otherwise result. As an alternative, a well-designed customer referral program could benefit from the use of "cold transfers," to a dedicated EGS phone line, which would allow the EGS representative to be trained in the reason for the transfer and therefore the explanation from one representative to another should not be necessary. The dedicated EGS phone line would also help assure that the EGS offers the product included in the customer referral program and would potentially allow for quality monitoring of customer service, average handle times, and customer wait times. The use of "cold transfers" in this instance would achieve the convenience sought for customers while not serving to further increase call time, wait time, or costs.

f. Product Information

Under the Companies' proposal in their Proposed DSP, once a customer indicates interest in the customer referral program and is transferred, the separate Customer Referral Plan implementation team will explain: (i) customer choice; (ii) that numerous offers are available at PaPowerSwitch.com; and (iii) that the Company has information about the current lowest prices for a twelve-month fixed-price offering and a twenty-four month fixed-price offering, which were obtained through an open bidding process.⁵ A customer that expresses interest in either the twelve-month fixed-price offering or the twenty-four month fixed-price offering will be transferred to the EGS that made such an offer so that the customer may be enrolled by the EGS. The Companies believe that the EDCs' role in administering such a program does not extend beyond the provision of general information as to the customer referral program offers available at the given time and the information that is currently provided regarding PaPowerswitch.com, and to facilitate the customer being connected with the EGS for more information. Also, the Commission should consider the impact that its proposed rulemaking regarding Marketing and Sales Practices for the Retail Residential Energy Market at Docket No. L-2010-2208332 may have upon EDCs' ability to provide offers to customers as part of a customer referral program. To the extent the language proposed in Section 111.14 through that rulemaking imposes an obligation upon EDCs when responding to service-related inquiries through phone calls to their call centers, the Commission should consider and clarify that the application of the obligations should not be imposed upon EDCs by this Section in instances where a customer referral program has been established.

⁵ The retail EGS(s) with the lowest twelve-month and twenty-four month fixed-price offering to which customers would be referred will be updated weekly based upon each week's winning bid. The lowest bid for each product must be lower than the respective Company's known PTC; if the low bid for a product is not lower than the respective Company's known PTC, the Company will not make referrals for that product during the upcoming week.

2. Standard Offer Customer Referral Program

The Commission views this variant of a customer referral program as more robust than the “New/Moving Customer Referral Program.” As envisioned by the Commission, this type of program involves voluntary participation by EGSs who agree to provide an administratively determined standard offer to participating customers. Such a standard offer provides for a percentage off an EDC’s PTC for a minimum of three months, after which the EGS can offer new terms or continue with the initial standard product, subject to proper notice to the customer. The standard offer is to be presented during customer contacts to the EDC call centers, other than calls for emergencies, terminations and the like. Additionally, the Commission suggests that the customer base for the “Standard Offer Customer Referral Program” be residential customers on default service, with detailed implementation/logistical elements to be determined during the default service plan proceeding for each EDC.

The Companies do not believe it is necessary to distinguish the suggested customer referral program models into separate “New/Moving Customer Referral” and “Standard Offer Customer Referral” programs. As such, the Companies reiterate their previous comments and believe that the customer referral program included in their Proposed DSP, as described above in greater detail, is better suited as an effective means to accommodate the Commission’s goal to facilitate customer participation in the competitive market while also balancing the primary role of the EDC to provide distribution-service related activities, including the provision to provide safe and reliable electric service. The time necessary to market and explain the nuances of multiple offerings from EGSs is best left to the EGSs themselves rather than requiring the EDC to market multiple offerings from EGSs.

Aside from likely confusion to result from such an offering, such a model is inherently anti-competitive and thus contrary to the stated goals that are to be furthered by implementing

such a program. To use an administratively-determined price promotes regulation rather than competition. Any customer referral program aimed at enhancing the retail market should be based on a competitive solicitation in order to effectively foster competition. Further, those prices need to be competitively determined at a rate that is likely to be competitive for a significant time period. A three-month introductory or teaser rate simply does not achieve this due to its short term. Interestingly, the standard offer model that has been advanced as part of this intermediate workplan is significantly similar to that offered in New York, which began to be implemented between 2004 and 2006. The results that New York's retail market has experienced do not support or justify the implementation of such a program in this instance, as New York's residential migration levels as of April 2011 still had yet to exceed 20%.⁶ To put this in context, according to PaPowerSwitch, 25% of Pennsylvania's residential customers are currently shopping as of January 11, 2012, only one year following the final expiration of generation rate caps across the Commonwealth. To impose what has been demonstrated to be an ineffective model upon the Pennsylvania market at a large expense to ratepayers would be an inefficient use of resources.

The Companies have repeatedly voiced concerns over short-term teaser rates and the need to avoid them. Aside from eroding customer trust in their EDC, such rates will be counter to the goals of the RMI in that they may likely result in the erosion of customer trust in the retail market as a means to find meaningful savings. Certain customers at Met-Ed have recently been promised a low introductory rate for several months followed by rates that are much higher than the Company's PTC. Statistics regarding Met-Ed's customer shopping rates for October 2011 illustrate that 28% of Met-Ed residential customers who switched were paying 30% more than Met-Ed's then-current PTC, and a total of 54% of shopping Met-Ed residential customers were

⁶ New York Electric Retail Access Migration data, April 2011 from New York Public Service Commission website.

paying in excess of the PTC.⁷ To impose such a model on EDCs and ultimately, customers, is simply not in the best interests of the Commonwealth's ratepayers.

Finally, an administratively determined standard offer paired with short-term teaser rates will put an EDC's customer service representatives in the likely position of knowingly recommending to some customers that they take service from an EGS that will change terms on the customer after three months and charge up to 30% more than the PTC, while other customers are offered recommendations that they take service from an EGS that will offer significantly more value at the end of the short-term teaser rate period. Such a responsibility should absolutely not be imposed on EDCs or their customer service representatives. For all of the foregoing reasons, it remains the Companies' position that an administratively determined standard offer referral program such as the one contemplated is not in the best interests of their customers, and that the adoption of a program that is based on a competitive solicitation in the nature of the one described herein and proposed by the Companies as part of their Proposed DSP is the most effective way to encourage accessible, low-risk shopping for customers on a competitively-neutral basis.

D. Retail Opt-In Auction Programs

As outlined by the Commission in the Tentative Order, a retail opt-in auction program consists of an EGS or EGSs bidding to provide competitive retail electric service to a group of customers within a specific EDC's service territory. As opined by the Commission, opt-in auctions pose a possible safe and easy mechanism to increase customer participation in the competitive market and decrease EGS customer acquisition costs. In the Final Order entered December 16, 2011 in this docket, the Commission maintained its recommendation that EDCs include an opt-in auction program in their upcoming default service plans. In the Tentative

⁷ It should also be noted that Met-Ed's October 2011 PTC is the highest PTC that Met-Ed has published since the elimination of rate caps.

Order, the Commission addresses several details involved in setting up and implementing opt-in auctions. The issues fall within the general categories of: (1) customer eligibility; (2) EGS and EDC participation; (3) pilot programs; (4) program length/term; (5) timing; (6) customer participation caps; (7) supplier participation caps; (8) composition of customer offer – product; (9) customer options upon program expiration; (10) opt-in auction structure; and (11) creditworthiness and security.

The Companies will address each of these issues in the sequence provided in the Tentative Order. It should also be noted that, along with the customer referral program previously discussed, the Companies have included a retail opt-in auction program in its Proposed DSP which, to a large extent, already addresses the issues presented by the Commission and is therefore discussed within these comments. This program was designed to encourage customers who might not otherwise shop to take advantage of a risk-free option, which ensures savings through a 24-month product offering based on a percentage off the PTC, as determined through an ascending-clock auction process. It is the Companies' position that the Commission should adopt an opt-in auction structure that contains the components included in the one the Companies have proposed. It should be noted, however, that as of the date of filing of these comments, at least five EDCs have filed for approval of their upcoming default service plans, all five of which have included opt-in auction proposals in their plans in response to the Commission's December 16 Final Order. Therefore, it would be inappropriate for the Commission to pre-judge those programs in the context of this proceeding while those cases are yet pending, as the proper forum for making a determination on the merits of those programs is at their respective dockets.

1. Customer Eligibility

The Commission believes that opt-in auctions should be limited to the residential customer class. Within the residential class, the Commission directs that the opt-in auction program's marketing efforts, notifications and consumer education be targeted to non-shopping default service customers, but that all residential customers be eligible to participate. The Commission requests that parties comment on the possibility of not including certain residential customers, such as customers in CAP, net metering, time of use, etc., from such a program. Further, the Commission proposes that small commercial and industrial ("C&I") customers not be included in the opt-in auction due to the lack of a standard "small commercial" definition across the Commonwealth.

The Companies agree with the Commission's limitation of the opt-in auction to the residential customer class, for those same reasons enumerated by the Commission and those reasons stated in the Companies' earlier comments regarding customer referral programs, and therefore have not proposed an opt-in offering for small commercial customers in their Proposed DSP. In the Companies' Proposed DSP, all residential customers, including those participating in programs such as CAP, net metering, time of use, etc., are considered eligible to participate, and the Companies, given their existing and proposed rate structure and universal service programs, see no reason to exclude any specific category of residential customers from participation. The target market for participation is non-shopping default service residential customers. Although residential customers that are already shopping for generation service are not the target for participation and will not receive the offering to participate, if they contact one of the winning EGSs during the open enrollment period they will be eligible to participate if they so choose.

2. EGS and EDC Participation

The Commission states that EGS participation in the opt-in auction should be voluntary and all appropriately-licensed EGSs should be eligible to participate. The Companies agree with the Commission's determination and have already reflected such criteria in their Proposed DSP.

3. Pilot Program

The Commission doubts the usefulness and appropriateness of pilot programs due to questions regarding whether this could be accomplished in time for a 2012 pilot, the fact that there would not be time to evaluate any "lessons learned" prior to the next plans, and the inappropriateness and risk of tampering with current default supply contracts. The Companies agree with the valid reasoning provided in the Commission's determination and have no plans to provide a pilot opt-in auction.

4. Program Length/Term

The Commission is concerned that a two-year contract term is too long, in that it may increase the risk premiums EGSs will have to incorporate into their prices. The Commission opines that a long-term contract may discourage some EGSs from participating, thus shrinking the bidding pool and possibly leading to higher prices. Because the Commission is convinced that a two-year contract term would complicate the price and savings messages, the Commission proposes that the program term be no shorter than six months and no longer than twelve months. Further, the Commission states that customers should be able to exit the program at any time, but that such customers shall not be permitted back into the program once they return to default service.

The Companies do not agree that a two-year contract term is too long. Not only does a two-year contract term synchronize well with the two-year default service duration called for by the Commission in its December 16 Final Order, the opt-in auction included in the Companies'

Proposed DSP includes the “percentage off” of the PTC product, which guarantees that customers who opt-in to the program will benefit from doing so, while still reflecting pricing fluctuations due to market conditions. This attribute, which guarantees savings as compared to the PTC, will also minimize what has been known as “regret risk” – that is, customer fear that switching from a known supplier of default service to an EGS could cause them to pay higher prices. If the purpose of the intermediate work plan is to improve the current retail electricity market, then offering a customer a guaranteed savings over two years as opposed to one year can only be viewed favorably by customers. Also, if customers are permitted to exit the program at any time without penalty, there is no risk to the customer to participate. The Companies strongly support providing customers a guaranteed savings over two years as opposed to one year.

With regard to the Commission’s concern that a two-year contract term is too long and that it could shrink the bidding pool, which may possibly lead to higher prices, there is only speculation that would lead to that conclusion. EGSs have access to the same wholesale products as bidders in the Companies’ default service auctions, and the Companies have successfully bid residential default service contracts with two-year terms that have been approved by the Commission. Also, there are currently multiple EGS offers listed on PaPowerSwitch for two-year fixed terms, implying that this is not a product that suppliers are unwilling to offer. Without evidence to conclude that a certain contract term could increase or decrease the bidding pool, it should be left to the EDC to define the term in its default service plan, where a full evidentiary record can be developed.

Finally, the Companies support the Commission’s notion that customers should be able to exit the opt-in program at any time, subject to the switching timeline in each Company’s supplier tariff, and that such customers shall not be permitted back into the opt-in program once they

return to default service. However, it should be clarified that customers who exit the program should similarly not be permitted to return to the program if they switch to a different EGS.

5. Timing

The Commission concludes that the start of service under the opt-in auction program should occur on or after June 2013 so as not to tamper with current default service supply contracts and plans. The ideal starting date, in the Commission's view, would be June 1, 2013, with the potential for up to only a "few months" delay if necessary, with a uniform start date across the Commonwealth. The Commission is also inclined to have a short enrollment period of no longer than a month, with an enrollment period occurring as close as possible to the actual service start date. Additionally, the Commission requests that comments address the balance between the need for potential customers to have sufficient pricing information with the need of interested EGSs to have some idea of the size of the auction pool.

The Companies agree that the start of service under the opt-in auction program should occur on or after June 2013 so as not to tamper with current default service supply contracts and plans. In fact, the Companies' Proposed DSP provides for an opt-in auction program to commence in June 2013. However, the Companies are concerned that an enrollment period of no longer than one month could be interpreted as thirty days from the date the auction suppliers are awarded. Because the Companies propose to inform their residential customers of the ability to opt-in to the program by means of a bill insert or direct mailing, it should be clarified that the enrollment period is thirty days from the date indicated on the mailing. This affords residential customers a reasonable opportunity to respond to the opt-in auction program while recognizing the timing delay inherent in the customer billing cycles, which takes a full month to complete. Additionally, it would be impossible for the Companies to adhere to a uniform starting date for such a program, either across their own territories or across the entire Commonwealth, due to the

fact that the Companies' operational limitations require that a customer begin service with an EGS starting with the meter read date in the month in which service is to start. Therefore, consideration must be given to this factor when determining the start date for any opt-in auction program.

With regard to balancing the need for potential customers to have sufficient pricing information with the need of interested EGSs to have some idea of the size of the auction pool, the Companies support the idea that customers should be offered a specific rate as well as specific terms and conditions of service at the time of the opt-in solicitation. Additionally, the opt-in nature of the program ensures that only those customers would know the specific rate and term of the winning bidder in the auction that would be their generation service provider. To the contrary, if the customer is required to make a decision to opt-in to the program *before* the final opt-in auction price is known, the customer must make a decision whether to leave default service based on *ex ante* expectations about price differences between the opt-in auction program and default service that, in fact, may not arise in actuality. The Companies believe that a customer should not be required to "shop" without knowing the price and term of the product available. Under the opt-in auction program in the Companies' Proposed DSP, customers will make the decision whether to opt-in to the program based on a head-to-head price comparison that occurs after the final procurement for default service generation with a known percentage off discount. The Companies believe that providing customers a concrete head-to-head price comparison is superior to providing estimates that, if inaccurate, could lead to negative shopping experiences and complaints, as well as erode the public's trust in the EDC and the Commission. Any potential impacts to bidding EGSs that may not know the number of customers that will be in the aggregation group can be minimized through the use of a tranche style auction and should

be of a secondary concern, as the express goal is to increase and enhance the shopping experience and benefit customers rather than trying to minimize risk to bidding EGSs.

6. Customer Participation Caps

Although the Commission would like to maximize customer participation in the opt-in auction, the Commission believes a customer participation cap is needed as an appropriate and useful mechanism for providing transparency to wholesale suppliers. As such, the Commission proposes a participation cap of 50% of an EDC's default service customer base. Further, the Commission envisions the retail auction as a one-time event and does not foresee follow-up auctions.

It is difficult to understand how it can be viewed that a customer participation cap would further the Commission's stated goal of improving the current retail electricity market. To the contrary, a participation cap could result in customer dissatisfaction and a negative view of shopping if all residential customers are not permitted to participate within the enrollment period. The "first come, first served" approach means that informing residential customers of their ability to opt-in to the program by means of a bill insert would be impractical, as it would be unfair to customers in the last bill cycle as opposed to customers in the first bill cycle. Additionally, if the Commission views 100%, or near 100% shopping, as an ideal target shopping figure, then the imposition of a participation cap is contrary to the Commission's view of optimal shopping percentages. As such, the Companies believe that all residential customers should be eligible to participate, regardless of credit history, income level, usage level, load factor, or location, and despite the number of customers that opt-in.

The Companies do, however, agree with the Commission that the retail opt-in auction should be a one-time event as a means to spur as much shopping activity as possible.

7. Supplier Participation Load Caps

The Commission believes it can protect both the diversity of the market and obtain a reasonable retail auction price by imposing an EGS participation cap of 50% of the customer class default service accounts for each EDC service territory. The Commission further envisions the use of a tranche structure such that an EGS could more easily project the number of customers it may ultimately serve.

While the Companies fully support the use of a tranche structure in the administration of the opt-in auction and have proposed the use of a tranche structure in the opt-in auction program detailed in their Proposed DSP, they do not agree with the Commission's theory that one EGS winning the opt-in auction replaces one default service provider with another. The winning EGS, or EGSs, are not default service providers and should not be viewed as such, as it is not incumbent upon those EGSs to serve customers in the event of EGS default. Additionally, the view that a sole winning EGS is tantamount to replacing one default service provider with another sets the presumption that EGS-provided default service requires multiple EGSs rather than potentially one EGS – a position that has not been thoroughly developed or determined. Further, if the Commission is concerned that an alteration to the bidding pool could possibly lead to higher prices (a position that is speculative), then requiring multiple winning EGSs will almost certainly lead to higher prices due to the fact that the EDC may be forced to select EGS(s) that do not meet the auction-clearing price. A load cap would most likely affect the price obtained through the auction, resulting in a smaller benefit to customers, and thereby making the results less attractive as an alternative to default service and negating the goal of the program.

Also, a participation cap of 50%, either as a supplier participation load cap or a customer participation cap, does not effectively recognize the differences in the size of the default service population in the various EDCs. A large EDC with a small percentage of residential shopping

customers represents a very different size of load as compared to a small EDC with a large percentage of residential shopping customers. The variances in the sizes of load can also affect supplier participation – an issue that has not been addressed in the Tentative Order. Because a 50% limitation may be considered by some parties as an arbitrary value, the Companies recommend that, should either a supplier participation load cap or a customer participation load cap be included in the Commission’s final order, the precise percentage be determined in each EDC’s individual default service plan to allow a full evidentiary record to support the percentage. Further, the risk that all non-shopping residential customers would opt in, thereby creating a significant load share held by only one EGS, is low.

8. Composition of Customer Offer – Product

The Commission does not believe that the composition of the customer product should be uniform statewide. Instead, the Commission proposes the following two possible product models: (1) fixed rate product with a bonus; or (2) percentage off rate with no bonus. The Commission also states that customers should be free to exit the opt-in auction pool at any time using standard procedures without the imposition of termination fees.

The Companies do not support short-term teaser rates or marketing gimmicks that could damage the trust that an EDC has worked to earn from its customers, and which could 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 EDC’s PTC rates, thereby increasing the likelihood of increased call volume and customer concerns regarding these rates. As stated previously in reference to customer referral programs, EDCs should not be forced to recommend to their customers short-term teaser rates that could result in long-term costs to those customers, while also placing potential liability on the EDC by virtue of its role in offering the

recommendation. To the contrary, the Companies support a “percentage off” of the PTC product, which guarantees that customers who opt-in to the program will benefit from doing so. Because the percentage off rate with no bonus proposed by the Commission is the precise model used by the Companies in their Proposed DSP, the Companies have no objection with the Commission’s recommendation to the extent that the EDC has the option to choose between the two product models presented by the Tentative Order. Also, the Companies agree that customers should not be held subject to early termination fees or penalties in the event they wish to transfer service to another EGS or back to default service before the term of the opt-in product has expired.

9. Customer Options upon Program Expiration

The Commission states that opt-in program participants should be treated no differently than any other shopping customer when the program ends, and that the Commission’s renewal notice guidelines should be fully applied. The Companies agree with the Commission’s determination and have already reflected such criteria in their Proposed DSP.

10. Opt-In Auction Structure

Because there do not appear to be strong arguments to support choosing a sealed bid process as opposed to a descending clock auction, the Commission is requesting comments on how the mechanics would work to provide a single clearing price.

In the Companies’ Proposed DSP, an auction as opposed to a sealed bid process is utilized. The price parameter that bidders in the opt-in auction bid is a percentage-off amount from the PTC, so the percentage-off amount will increase round by round. The Companies have proposed an ascending clock auction because it provides for a fair, transparent, and competitive bidding process, and is an effective price discovery mechanism that determines winning bids and winning bidders. Through simultaneous bidding on products that are related in value, bidders are

able to switch their bid quantities across substitutable products and are able to bid simultaneously on complementary products in response to changes in the prices. This encourages bidders to bid their highest possible percentage-off amounts on the products. Percentage-off amounts rise during the auction and relative percentage-off amounts across the products change to reflect bidders' valuations across products relative to the total number of customer blocks available until the auction closes at percentage-off amounts that reflect supply-demand equilibrium for each product and across products.

11. Creditworthiness and Security

Given the limited discussion of creditworthiness and security, the Commission is not prepared to offer a specific proposal on this topic. Instead, the Commission invites comments as to the need for security.

Subject to the parameters and criteria contained in the Companies opt-in auction in their Proposed DSP, the Companies will not require security in excess of the existing security requirements contained in their respective supplier coordination tariffs. However, it should be understood that opt-in suppliers must be licensed by the Commission to offer and supply competitive retail electric service in the Commonwealth and be members in good standing with PJM Interconnection, LLC.

12. Other Aspects

The Commission also invited comments from parties on any other aspect of opt-in auctions that may have been overlooked in its proposals. The Companies have devoted a great deal of time and effort in carefully crafting viable and effective customer referral and opt-in auction programs in their Proposed DSP. The Proposed DSP contains the detail necessary for the programs to be effective in spurring as much shopping activity as possible, while at the same time minimizing the strain on EDC resources so the Companies can remain focused on their

primary role as distribution utilities. The Companies encourage the Commission to adopt the programs as contained in their Proposed DSP to effectively address all aspects of opt-in auctions and customer referral programs.

E. Default Service PTC on Customer Bills

The Commission proposes that EDCs be required to place current PTCs on customer bills and state when this PTC will be in effect. Specifically, the Commission proposes to require that EDCs display the following information on monthly customer bills:

- The PTC for the customer's rate class; or a customer-specific PTC for those EDCs and rate classes where the EDC has previously committed to provide a customer-specific PTC. The price should be labeled "Price To Compare." If the PTC varies within a rate class as a function of usage characteristics, a customer-specific PTC should be provided;
- A statement of when the PTC will be in effect, that the PTC can be adjusted and an explanation about how often it can be adjusted;
- A reference to PAPowerSwitch.com as a source for more information (space permitting)

Tentative Order at 45.

The Commission also provided the following example showing how this information could be presented on a bill, while at the same time recognizing that EDCs may develop alternative wording, format, and placement of information on the bill to the extent that the basic information is provided:

Your Price To Compare for your rate class is X.XXX per kWh through __/__/__. This can change quarterly. For more information and supplier offers visit www.PAPowerSwitch.com.

Id.

The Companies agree with the Commission that it is important to provide information on customer bills regarding the PTC and generally support the recommendations associated with this topic, subject to the considerations noted herein. The Companies currently provide a

customer-specific PTC and plan to continue to do so. However, a statement of when the PTC will be in effect, that the PTC can be adjusted, and an explanation about how often it can be adjusted will be different for customers with a flat rate for default service that changes quarterly as opposed to larger customers with hourly-pricing for default service. Recognition of this distinction is necessary because customers with hourly pricing do not have predefined periods by which their default generation rate is in effect. Additionally, because it is not clear from the Tentative Order whether the PTC bill message should be placed on customer bills regardless of shopping status or whether the PTC bill message should be placed only on non-shopping customer bills, the Commission should clarify that the PTC bill message should be placed on all customer bills regardless of shopping status. To the extent the Commission orders a method that is not currently programmed by the EDC, the Commission should afford the EDC the necessary time to make the programming changes to accommodate the Commission's ordered method.

F. Coordination between EDCs and EGSs

The Commission has separated this item into three separate issues: (a) EDC supplier charges; (b) sample bills; and (c) creditworthiness standards.

a. Supplier Charges

The Commission has indicated that, for the most part, current EDC supplier charges were not a significant concern. The Companies agree with the Commission's conclusion, but also note that as the Commission moves to smart meter deployment demands for EGS access to smart meter data increase, such increasing demands may necessitate a change to the supplier charges of the EDCs' supplier coordination tariffs.

b. Sample Bills

For sample bills, the Commission seeks comments whether the language in existing letters of authorization ("LOAs") should be deemed sufficient to provide customer consent for an

EGS to request a specific customer's bill from an EDC, and what changes would be necessary if the answer is "no." The Commission also seeks comment whether EDCs are able to provide copies of specific customer bills and, if not, how difficult it would be to provide that capability.

The ability of an EDC to provide copies of specific customer bills is extremely limited because the Companies do not have an automated method and it would be extremely difficult and costly to implement one. However, as a viable alternative, the information requested by the EGSs may be readily available via electronic data interchange ("EDI"). Additionally, because the provision of actual bills is not feasible within the realm of the Companies' operational capabilities, the determination of whether the existing LOAs are sufficient for an EGS to request a specific customer bill becomes a moot point. However, on the specific question, the Companies believe that the existing LOAs as currently written do not provide the necessary authorization to release actual customer bills to requesting EGSs.

c. Creditworthiness Standards

For creditworthiness standards, the Commission suggests the adoption of Met-Ed's creditworthiness standard involving long-term bond-rating criteria for use on a statewide basis, along with adoption of the expanded list of credit instruments proposed by RESA as part of the RMI technical conferences. The Commission also seeks comments regarding the development of a uniform risk assessment formula for Commonwealth EDCs and the question of whether such an issue should be approached through a separate proceeding.


The Companies support and endorse the adoption of Met-Ed's existing creditworthiness standards, subject to the expansion of the credit instruments list as suggested by RESA through the RMI. The Companies continue to support their current process outlined in the white paper attached as Appendix A to the Tentative Order, which enumerates the credit standards required by their respective supplier tariffs and the instances in which the posted credit is to be retained in

order to reduce the cited risk exposure factors, as well as the identification of other risk exposure that an EDC may experience due to increased shopping.

III. CONCLUSION

Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company appreciate the opportunity to provide comments on these important issues and request that the Commission consider these comments in its development of the final order to the intermediate work plan.

Respectfully submitted,



Dated: January 17, 2012

Tori L. Giesler
Attorney No. 207742
FirstEnergy Service Company
2800 Pottsville Pike
P.O. Box 16001
Reading, PA 19612-6001
Phone: (610) 921-6658
Fax: (610) 939-8655
Email: tgiesler@firstenergycorp.com

Counsel for:
Metropolitan Edison Company,
Pennsylvania Electric Company,
Pennsylvania Power Company and
West Penn Power Company

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

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).

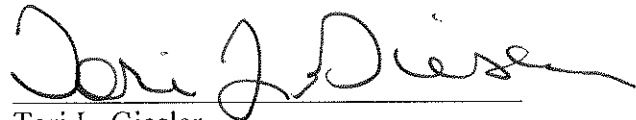
Service by first class mail and electronic mail, as follows:

Steven C. Gray, Esq.
Acting Small Business Advocate
Office of Small Business Advocate
Suite 1102, Commerce Building
300 North Second Street
Harrisburg, PA 17101
sgray@state.pa.us

Irwin A. Popowsky, Esq.
Office of Consumer Advocate
555 Walnut Street – 5th Floor
Harrisburg, PA 17101-1923
spopowsky@paoca.org

Johnnie E. Simms, Esq.
Bureau of Investigation & Enforcement
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265
josimms@state.pa.us

Dated: January 17, 2012



Tori L. Giesler
Attorney No. 207742
FirstEnergy Service Company
2800 Pottsville Pike
P.O. Box 16001
Reading, Pennsylvania 19612-6001
(610) 921-6658
tgiesler@firstenergycorp.com

Counsel for:
Metropolitan Edison Company
Pennsylvania Electric Company
Pennsylvania Power Company and
West Penn Power Company