

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Default Service and Retail Electric Markets

Docket No. M-00072009

**COMMENTS OF  
PSEG ENERGY RESOURCES & TRADE LLC**

Pursuant to the Proposed Policy Statement entered by the Pennsylvania Public Utility Commission in the above-captioned matter on February 9, 2007<sup>1</sup>, PSEG Energy Resources & Trade LLC (“PSEG ERT”) hereby files its comments concerning the obligation of electric distribution companies (“EDC”) to serve retail electric customers at the conclusion of the restructuring transition periods. In support whereof PSEG ERT respectfully shows as follows

**I. IDENTITY OF PSEG ERT**

PSEG ERT engages in extensive marketing of electric energy and capacity in the northeastern region of the country. PSEG ERT’s parent company, PSEG Power LLC, (“PSEG Power”) owns approximately 10,000 megawatts of capacity within the PJM region. PSEG ERT has provided service to support the default service requirements of EDCs in a number of northeastern states. In New Jersey, PSEG ERT provides significant levels of “Basic Generation Service” (“BGS”), wholesale default supply, to the New Jersey EDCs. In addition, PSEG ERT has provided support for EDC default services in Pennsylvania, Massachusetts, Connecticut, Rhode Island and Maryland. Also, PSEG ERT previously

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<sup>1</sup> *Default Service and Retail Electric Markets*, Docket No. M-00072009, “Proposed Policy Statement,” entered February 9, 2007.

submitted comments to this Commission in connection with default service in Pennsylvania in *Provider of Last Resort (POLR) Roundtable*, Docket No. M-00041792.<sup>2</sup>

## II. COMMUNICATIONS

PSEG ERT requests that all communications concerning this docket be directed to the following persons:

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## III. COMMENTS

PSEG ERT has been an active participant in the “Basic Generation Service” (“BGS”) auctions held in New Jersey to meet the energy supply requirements for default service provided by EDCs in that state. PSEG ERT believes that the BGS auction procurement process has worked well both in attracting the participation of qualified suppliers and in obtaining supply arrangements for customers at reasonable rates. The Commission's Proposed Policy Statement adopts a portfolio approach that envisions adjustments to rates for procurement arrangements occurring several times throughout a given year. PSEG ERT has also participated in these types of solicitations in the past and finds them to be successful when standards for competition are clear and consistent for all bidding entities.

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<sup>2</sup> “Comments Of PSEG Energy Resources & Trade LLC For The POLR Roundtable,” *Provider of Last Resort (POLR) Roundtable*, Docket No. M-00041792, filed May 14, 2004.

A successful procurement mechanism needs to provide transparency to bidders and to utilize decisional criteria that will enable consumers to acquire energy at the lowest prices reflective of prevailing market conditions. It is essential that there be a “level playing field” for all participants in terms of access to information and that the selection process for winners be clearly defined and fairly administered. In particular, limiting the number of variables upon which winners are selected is critical. PSEG ERT believes that the portfolio approach can meet these requirements provided that the Commission remains vigilant in ensuring that the procurement offerings implemented by the EDCs embody the principles stated in the Commission’s Proposed Policy Statement.

Importantly, the Proposed Policy Statement includes the following principles:

- Standardized request-for proposal (“RFP”) documents.
- Real-time procurement auctions allowed as an option.
- Standardized supplier master agreements approved by the Commission.
- Uniform bidder qualification rules.
- Standards for confidential bid information.
- Bids should be solicited for tranches of load within each customer class.
- Monitoring by an independent evaluator.
- Avoid conflicts in the timing of larger procurements .
- Prompt Commission review and approval of results.

PSEG ERT believes that adherence to these principles would provide a strong foundation for the procurement of default service and should be expected to attract significant participant interest thus resulting in procurement at levels truly reflective of prevailing market prices.

PSEG ERT suggests, nonetheless, that the Proposed Policy Statement be clarified or amended in certain respects. First, although implied by certain of the Proposed Policy Statement elements as currently formulated, the final Policy Statement should explicitly state that winning bidders will be selected based on objective criteria announced in advance to market participants. Ideally, even if the RFP approach is utilized, the sole decisional criterion should be price. If other criteria are to be utilized, *e.g.*, preferences for particular types of resources, the scoring criteria should be fully explained to bidders well in advance of the auction. Further, consistent with the Proposed Policy Statement guidelines providing for “standardized supplier master agreements,” PSEG ERT does not believe that non-conforming contracts – including the introduction of additional terms or modifications to the master agreement in a confirmation document -- should be allowed. If non-conforming contracts are permitted, the evaluation of competing bids will inevitably become subject to the subjective discretion of the reviewer.

Second, the role of the “independent evaluator” should be further defined. As apparently envisioned by the Commission, the EDCs would actually perform the procurement activities and the “independent evaluator” would monitor performance. PSEG ERT believes that this approach can supply sufficient protections provided that the “independent evaluator” is involved in all aspects of the process and is truly independent. Specifically, the independent evaluator should oversee: (i) the bidder information and procurement announcement process; (ii) the bidder qualification process; (iii) the process for the solicitation of bids or RFPs; and (iv) the process for the selection of winners. The “independent evaluator” should also be available to mediate disputes between bidders and the EDCs and should have direct access to the Commission in order to bring problems or

concerns to the Commission's attention at any stage of the procurement process. Finally, the "independent evaluator" should be selected by the Commission.

Third, although apparently not prohibited by the Proposed Policy Statement, the Commission should explicitly allow standardized supplier master agreements to include tracking for transmission cost increases (or decreases) occurring during the term of a supply contract. Transmission rates in PJM for the last several years have been difficult to evaluate due to ongoing and highly contentious proceedings at the Federal Energy Regulatory Commission ("FERC"). Notably, the "SECA"<sup>3</sup> case has been ongoing for several years and will probably not be finally resolved for several more years. Also, three filings for the recovery of costs associated with transmission upgrades under PJM's Regional Transmission Expansion Planning mechanism are now before FERC and additional filings involving similar costs are expected in the future. These filings have the potential to significantly increase transmission rates but, at least at this time, the level of the costs and the cost allocation mechanisms that will ultimately be used are very difficult to forecast. If bidders are required to assume the risk of transmission cost increases – particularly under longer term contracts – they are likely to build premiums into their bids reflecting the full potential of this risk. Prices will thus be more closely reflective of electricity commodity costs if contracts include a tracker for transmission rate changes.<sup>4</sup>

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<sup>3</sup> "SECA" refers to the "Seams Elimination Charge/Cost Adjustment/Assignment."

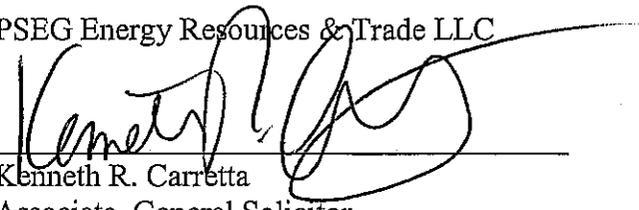
<sup>4</sup> The Master Supplier Agreements currently used in the New Jersey BGS auction include a type of tracker mechanism permitting passthrough of transmission cost increases and decreases. In advance of the BGS auction, participants are advised of a "base transmission rate" that should be included in bids. Transmission rate increases or decreases then are reflected in the tracker payments or deductions.

Wherefore, PSEG ERT respectfully requests the Commission to accept its comments.

Respectfully submitted,

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