PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265

Default Service and Retail Electric Markets	**Docket No. M-00072009**
Rulemaking Re Electric Distribution Companies' Obligation to Serve Retail Customers at the Conclusion of the Transition Period Pursuant To 66 Pa.C.S. § 2807(e)(2)	**Docket No. L-00040169**
Policies to Mitigate Potential Electricity Price Increases	**Docket No. M-00061957**

COMMENTS OF RELIANT ENERGY, INC. ON PROPOSED POLICY STATEMENT, ADVANCE NOTICE OF FINAL RULEMAKING ORDER, AND PRICE MITIGATION TENTATIVE ORDER

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Introduction

Reliant Energy, Inc., ("Reliant") is pleased to have the opportunity to offer comments on the Pennsylvania Public Utility Commission's ("Commission") Proposed Policy Statement ("PPS"), the Advanced Notice of Final Rulemaking Order ("ANOFR") for default service in the Commonwealth and the Tentative Order ("TO") on policies to mitigate potential electricity price increases. Reliant is filing this set of consolidated comments in all three referenced dockets due to the interrelated issues contained within. Reliant has previously offered comments on the structure of default service on April 27, 2005 and on June 27, 2005 in

Docket No. L-00040169. Reliant also provided comments on policies to mitigate potential price increases on June 15, 2006 and on July 20, 2006 in Docket M-00061957.

Previously in its comments filed April 27, 2005 on the structure of default service submitted in Docket L-00040169, Reliant proposed its Market Responsive Pricing Model ("MRPM") which consists of hourly-only default service pricing for large commercial and industrial customers with peak loads greater than 100 kW. The MRPM for residential and small business customers consisted of establishing an initial fixed default service price that could then be adjusted by the default service provider up to twice per year based on a known index to reflect changes in market prices and conditions. Reliant also offered several alternatives to the full implementation of the MRPM to allow for a gradual introduction of market responsive pricing for smaller customers. Reliant believes that the MRPM is one way to facilitate the development of competition in Pennsylvania for all customer classes, but also believes that other approaches to achieving that goal may exist as well.

In reviewing the PPS and the ANOFR, Reliant appreciates the Commission's efforts in attempting to balance the interests of all parties while striving to meet the directives of the Electric Generation Customer Choice and Competition Act ("Choice Act"). While Reliant does not agree with every aspect of the PPS and ANOFR, it does believe that, for the most part, these proposed policies and guidelines can begin to effectuate the move towards a robust, competitive retail market for all customers as called for by the Choice Act. These comments are offered within the context of the PPS and ANOFR framework.[1] Reliant also believes that implementation of default service features that fail to provide a pathway to robust competition should be rejected and those that may promote a robust, sustainable competitive market consistent with the Choice Act should be adopted.

Reliant will provide a limited number of comments on those elements of the PPS and ANOFR that it believes will be the most effective in facilitating the development of competitive retail markets at the expiration of the rate caps. Reliant will next address two recommend changes to the policies and rule. Reliant will then discuss those elements of the PPS and ANOFR that it believes are unnecessary. Finally, Reliant will conclude with commentary on the price mitigation options put forth in the PPS for the electric distribution companies ("EDCs") to consider incorporating into their default service programs, if needed, and the consumer education questions raised by the Commission in the TO in Docket M- 00061957.

Elements of the PPS and ANOFR That Will Facilitate Market Development

Reliant believes that the PPS and the ANOFR contain key elements that will begin to transition Pennsylvanians from a rate cap environment to one that is

[1] Consistent with its comments in Docket L-00040169, Reliant continues to believe that the competitive retail market would be advanced more rapidly if a competitive affiliate of the EDC served as the default service provider and was allowed to procure supply without regulatory mandates.

more conducive to the development of a robust competitive retail market by allowing the transition from rate caps to a competitive market to begin. The elements in the PPS and ANOFR that Reliant supports are:

1) Default service prices should reflect changes in wholesale prices;

2) Dif ferent default service adjustment frequencies are appropriate for different customer classes;

3) Recognitio n that changes in the policies and rules may be necessary as a result of evolving energy markets; and

4) Establish ment of purchase of receivables ("POR"), utility referral programs, and other programs that may allow for further development of a competitive retail market.

1) Default service prices should reflect changes in wholesale prices

The ANOFR states "[the] practice of regular adjustments will ensure that rates track prevailing wholesale energy prices." Reliant believes that this is one of the most important factors in the development of competitive retail markets. Evidence in Pennsylvania and New Jersey show that little to no retail competition exists when rates are capped or based on long-term default structures. The Commission has taken an important initial step in the right direction by recognizing that default service prices should reflect wholesale changes at regular intervals. However, the Commission should be cognizant that longer term default contracts, even with adjustments, will act to delay opportunities for Pennsylvanians to participate in a robust competitive retail market. Fully implemented market responsive default pricing ensures a retail environment that can provide the benefits of a competitive market consistent with the Choice Act.

2) Different default service adjustment frequencies are appropriate for different customer classes

The PPS states "we suggest different procurement strategies for different customer classes, consistent with the level of energy knowledge, financial resources, and opportunity to shop associated with these groups."[2] Reliant agrees that it is appropriate to implement strategies with differing levels of price variability for different customer classes. Larger customers are sophisticated energy consumers and have benefited from many competitive choices where their default service adjustments occur on a frequent basis. Duquesne has had hourly priced default service in place for a number of years for customers with peak loads of 300 kW and above and as of January 2007, 86 % of large customers are taking service from competitive providers.[3]

Residential and small business customers on the other hand may face slower transition to robust competitive offers than large customers due to lower consumption patterns, less financial incentive, and less technological ability to respond to hourly market prices. Therefore, at this stage in the development of the competitive market in Pennsylvania, compared to large customers, a less frequently adjustable default price may be appropriate.

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[2] PPS at 5.

[3] OCA's switching report does not distinguish Duquesne's large customers by peak demand level. http://www.oca.state.pa.us/Industry/Electric/elecstats/Stat0107.pdf

3) Evolving energy markets may necessitate changes in the rules

The Commission, recognizing that competitive energy markets are evolving and that change may be needed as a result of changes in federal or state law, improvements in technology, and developments in wholesale markets, has crafted a set of guiding policies as well as a set of rules to help shape the default service programs of individual EDCs at the end of their rate caps. Reliant agrees with the Commission that both the policies and regulations should be seen as "works in progress" going forward. Each state that has embarked upon the path to competitive electric retail markets has chosen a different path and as such, there are lessons to be learned, both positive and negative, that should be considered in policy development for Pennsylvania. Furthermore, the Commission has adopted a series of "interim plans" for those EDC's whose rate caps have already expired. These interim plans can also provide valuable information for shaping future policies and rules regarding default service in the Commonwealth.

4) Establishing Purchase of receivables, utility referral programs and other programs that may allow for further development of a competitive retail market

Reliant believes that the most important factor in bringing electric competition to all customers, especially residential customers in Pennsylvania is the design of the default service price. Once the default service price has been structured to sufficiently respond to changes in wholesale market conditions, then other programs (POR, customer referral program, uniform supplier tariffs and a retail choice ombudsmen) may help create a more vibrant retail market by bringing even more competitive choices and products to customers in Pennsylvania

Proposed Modifications to the PPS and ANOFR

1) ***The default service pricing structure should be hourly only for large customers with peak demands of 300 kW and above***

Both the PPS and the ANOFR recommend that customers with peak demands above 500 kW have a monthly or more frequently adjusted pricing structure. The PPS also allows the EDCs to propose a fixed price option for the Commission's consideration. Reliant believes that the default service pricing structure should be hourly only for customers with peak demands at least down to of 300 kW. Where hourly priced service is the default, it is clear that the goals of the Choice Act can be met. Hourly priced default service has been very successful in providing competitive choices in Duquesne's service area for customers down to 300 kW. A monthly adjustable default design is unproven in its ability to ensure competitive choices. Furthermore, allowing the EDC to offer a fixed price alternative to hourly priced default service will create significant barriers to entry for competitive retailers and will serve to limit the options these customers would otherwise see from a robust, competitive retail market.

2) ***Default service pricing linked to advanced metering technology***

As noted above, the Commission has some experience with various default service features due to the "interim" plans approved in particular service territories in the Commonwealth. There is clear evidence from Duquesne's experience with hourly priced default service that customers with peak loads below 500 kW are able to benefit from hourly priced default service.[4] This evidence should not be ignored. Reliant suggests that the threshold for hourly only default service should be lowered to at least 300 kW and in addition proposes that the Commission require EDCs to provide only hourly default service pricing to those customers between 300 kW and 100 kW that currently have hourly metering capability. Furthermore, as hourly metering capability is expanded within each EDC's territory to individual customers with peak loads of 100 kW and above, Reliant proposes that the default service become hourly with the installation of the advanced meter.

The expansion of advanced meter technology is also occurring for small business customers below 100 kW, as well as residential customers. Reliant proposes that once these customers have that capability, that the default service rate design incorporate a time of use ("TOU") structure. Empowering customers with their usage information and appropriate pricing signals will facilitate the ability of smaller customers to seek the products and services that best meet their needs from a robust competitive market.[5]

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[4] The Commission notes on page 21 of the ANOFR, "the experience of Duquesne shows that retail markets can work. Duquesne has the highest rate of customer choice in Pennsylvania." See http://www.oca.state.pa.us/Industry/Electric/elecstats/instat.htm.

[5] Reliant also believes that hourly priced default service can be implemented for customers without an hourly meter. For those customers that do not have an hourly meter, or choose not to install an hourly meter for themselves, there simply needs to be an hourly load profile representative of customers down to the appropriate level by which service can be priced.

Elements of the PPS and ANOFR That Are Unnecessary

While Reliant believes that the PPS and ANOFR contain many elements that will facilitate the development of competition. There are some aspects of the PPS and the ANOFR that Reliant believes are unnecessary and could be harmful to the competitive retail market:

1) Long -term (greater than 3 years) contracting for alternative energy resources; and

2) Long -term default service contracting (2-3 years) for residential customers.

1) Long-term (greater than 3 years) contracting for alternative energy resources

Reliant does not believe that regulatory mandated long-term contracting is necessary for the development of alternative energy resources as suggested in the PPS and ANOFR. There is market evidence that renewable contracting can occur without regulated procurement.[6] Texas provides a successful example of electric restructuring where competitive markets have met state renewable requirements. As part of its restructuring legislation passed in 1999, Texas established a renewable mandate of 2,000 MWs by 2009. Currently there are 2,923 MW of renewable generation in-service, with over 1,662 MW of additional wind generation likely to be in service by the end of 2007.[7] These resources were not procured through regulated procurement programs or state cost recovery

[6] This information is for the ERCOT region in Texas.
[7] www.ercot.com

guarantees. The success of the Texas market is clear evidence that renewable contracting and development can occur without regulated procurement. Other than the rules to comply with the statutory requirement and the means to account for compliance, regulating the long term contractual arrangements in the competitive marketplace is unnecessary and leads to harmful market distortions. Therefore, Reliant recommends that this provision of the PPS and the ANOFR be removed.

2) Long-term default service contracting (2 to 3-years) for residential customers

While Reliant believes that the PPS and ANOFR could begin the process of transitioning the electric market for residential customers from one of capped rates to a more competitive market, Reliant notes that the inclusion of long-term contracting (2-3 year) will delay the move towards robust, sustainable competition for residential customers. The inclusion of contracts of this length creates long time periods where the default service price becomes disconnected from wholesale prices. The New Jersey market provides a clear example of the detrimental effect the use of long-term contracts has on the development of a competitive market for residential customers. The Commission explicitly rejects the New Jersey laddered 3-year approach for residential customers since it has not allowed for any meaningful retail competition to develop for residential customers (as of December 2006, not a single residential customer was taking service from a competitive provider).[8] However, the Commission should be mindful that allowing 2 to 3-year contracts to be included in the default service price along with annual and spot purchases can have the same effect. If the default product design is overly tilted toward price certainty, then the entry of competitive retailers will be constrained.

The Commission has already recognized that long-term fixed price default service can be detrimental to the development of retail markets.[9] In addition to impeding the development of competition, the Commission also notes that other problems can exist with long-term fixed default prices. The PPS states, "an over reliance on long-term contracts would mute demand response, create the potential for future default service customer to bear future above market costs, and limit operational flexibility for DSPs to manage their default service supply."[10] For these reasons, Reliant recommends that the long-term contracting provisions of the PPS be removed.

Price Mitigation Tools and Consumer Education

The PPS provides a number of tools that the EDC might use to help customers manage a significant price increase, should one exist, at the time the rate caps expire. Reliant, in its Price Mitigation comments suggested that it would be premature to implement a price mitigation plan before it is known whether or

[8] http://www.bpu.state.nj.us/energy/elecSwitchData.shtml
[9] ANOFR at 21.
[10] PSS at 4.

not one will be needed. However, if the Commission believes mitigation rules are necessary at this time they should be competitively neutral. The PPS provides EDCs the ability to give customers the option to prepay or defer a post-rate cap increase over three years. Reliant is concerned that the prepay option could create a barrier to allowing a customer to switch to a competitive retail supplier. Since the details of such plans will not be known until the default service program is filed, it is hard to determine whether such plans will be implemented in a competitively neutral manner. Reliant put forth a recommendation in its Price Mitigation comments that would benefit all customers for whom the plan is instituted; not disrupt the development of a competitive retail market, and not harm the EDCs. That plan is comprised of the following elements: 1) allow the price increase to be spread over a one to five year period based on the magnitude of the increase; 2) recover the phased-in price increases through a non-bypassable charge applicable to all affected customers; and 3) consider allowing the EDC to issue securitization bonds over a long period of time (e.g. 15 years) to fund the credit extended to customers. Reliant believes that such a competitively neutral plan would be consistent with the PPS.

Reliant agrees with the Commission as well as other commentators to the price mitigation docket that customer education is very important in helping customers manage significant price increases that may exist at the end of the rate cap period. Reliant does not believe that monies should be spent unnecessarily or prematurely, but is also aware that consumer education campaigns take some time to plan and execute. The TO suggests that a statewide five-year, $5 million dollar statewide education effort be initiated in the very near term, and Reliant does not disagree with this level of spending over the next five years. The primary concern Reliant has with the statewide education program, as well as the utility-sponsored programs, is that the programs should be done in a competitively neutral manner.

Reliant believes that the EDCs will be better able to ascertain the education efforts needed in their own service territory at the time they file their default service programs no later than fifteen months prior to the end of their rate caps. The Commission has asked whether coordination needs to be done between the statewide education administrator and the EDCs. Reliant believes that the statewide effort can be undertaken independently of the EDC education programs. One way Reliant believes that the $5 million statewide education effort could be most effective would be to use the funds to establish a web-based site where customers could access not only the information that the Commission listed in the TO (the true cost of electricity, why rates change, when electric rates will change, how to prepare for potentially higher prices, how energy efficiency and conservation measures benefit customers, and why customers may realize savings by purchasing electricity from an alternative generation supplier), but that could also be used to also list competitive retail offers similar to the websites utilized in Texas and New York.[11] Then, customers could easily access comprehensive

[11] TO at 6. Texas' customer information based website is www.powertochoose.com and New York's is www.powertochooseny.com.

information that would help them manage their electricity purchases after the rate caps expire.

As noted above, the EDC program should be done in a competitively neutral manner and should be limited to informing customers about the specifics of their rate change at the end of the rate cap period (e.g., the order and timing of the magnitude of the increase, mitigation options the customer may have, etc.) Such education should not be a means for the EDC to further entrench itself as the customers' provider.

Summary

Reliant believes that the PPS and the ANOFR will be a step toward allowing EDCS to begin the transition from a rate-capped environment to one where retailers can begin to enter the market and bring consumer-oriented products and services to customers as the Choice Act envisioned. Reliant has recommended that two aspects of the rule be eliminated (long-term contracts for alternative energy resources and long-term contracts for residential default service) and two modifications be made (hourly only default for large customers and default service pricing linked to advanced metering capability) that it believes will better serve to bring robust, competitive retail competition to all Pennsylvanians at the end of the rate caps. With these changes to the policies and rules, Reliant believes that the rules will begin a path to the day when customers can begin to see the competitive benefits envisioned for them in the Choice Act.

Respectfully submitted,

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