

# PENNSYLVANIA ENERGY MARKETERS COALITION

November 23, 2011

Karen Moury  
Director, Office of Competitive Markets Oversight  
Pennsylvania Public Utility Commission  
PO Box 3265  
Harrisburg, PA 17105-3265

Dear Ms. Moury:

Please find enclosed the written Comments of the Pennsylvania Energy Marketers Coalition ("PEMC"), in supplement to the oral testimony delivered by Michael Meath, regulatory consultant to the PEMC, at the November 10, 2011 Pennsylvania Public Utility Commission *en banc* hearing as part of the retail markets investigation (Docket No. I-2011-2237952).

Please do not hesitate to contact me with any questions or concerns regarding our Comments.

Sincerely,



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/Enclosures

cc: Michael Meath, Regulatory Consultant, PEMC



Competitive Energy Suppliers (“ACCES”), is committed to working with consumers, regulators, utilities, consumer advocates, and other stakeholders to ensure that consumers understand the energy products and services that are available to them. PEMC and ACCES see three key points that are integral to any discussion on consumer education in the Commonwealth.

First, the Commission, Staff, Office of Consumer Advocate (“OCA”), electrical distribution utilities (“EDCs” or “utilities”), electric generation suppliers (“EGSs” or “suppliers”), and other stakeholders should be commended for the progress made in the RMI technical conferences on advancing consumer education; however, we need to do more.

Second, the education efforts to date have focused on the cost savings that consumers may enjoy when switching from default service to a competitive supplier. It is critical to the long-term viability of this energy market to explain to consumers the potential range of value-added products and services – which are distinct from cost savings – that suppliers can and will provide as the marketplace develops.

Third and finally, in the medium- and long-term, it is vital that this education effort be expanded to include natural gas choice as well as electrical choice.

On our first point, the RMI technical working group has labored diligently under Staff leadership to develop a postcard and Chairman’s letter campaign, which will provide Pennsylvania consumers who have not yet shopped with important information about how to begin the shopping process. Similarly, suppliers, utilities, and the OCA have worked together to develop new scripts for use by the utilities’ call center representatives to emphasize that customers have the option to switch. These are tremendous steps forward

and are progressive when compared with consumer education efforts in other state jurisdictions.

It cannot be emphasized enough, however, that consumers' concern about how they will be treated by their distribution utility if they switch is a major impediment to their shopping, and anything that the PUC and utilities can do to alleviate customer concerns in this regard is critical. Going forward, as Staff considers recommendations related to a comprehensive consumer education campaign, these efforts should include PSAs and other forms of direct communication through the use of every channel available, including social media. We strongly endorse such an effort, and commit the resources of PEMC and ACCES to provide support to any future campaign.

To the second point, these education efforts must be undertaken with care so as not to give consumers unreasonable expectations about the cost savings they may enjoy by switching to a competitive supplier. In an open market, competitive energy suppliers can offer consumers innovative products and services to meet individual energy needs – such as fixed or variable prices, renewable energy options, energy efficiency audits, and other value-added benefits. Energy choice is not solely about lower prices; energy choice first and foremost should be about empowering consumers to enable them to make informed energy decisions that best meet their individual needs.

Suppliers can offer competitive prices through prudent commodity purchasing practices and hedges, by reducing overhead and fixed costs, and through economy of scale. This is not a blanket guarantee, however, that at a particular point in time each and every supplier will offer a lower price than the default service rate. In those cases, shopping and switching will be based on the value that suppliers can demonstrate to consumers. Price is

important, of course, particularly in these challenging economic times. It is absolutely vital, however, to make sure that promises are not made to consumers that cannot be fulfilled.

Third and finally, we recognize and understand that the Commission in its wisdom limited the scope of this investigation to electricity markets alone. We further recognize the significant commitment that has been made by Staff in terms of time and resources into carrying out this investigation. While bearing these constraints in mind, we respectfully submit that if the retail market investigation cannot be broadened to include natural gas at this time, the consumer education campaign at least should be widened, for three reasons.

First, as education efforts to increase shopping in electricity and natural gas have already been undertaken, a statewide campaign focused solely on electricity may cause customer confusion – some may wonder if they still have a natural gas choice. Second, combining efforts will be a cost saver for consumers – the marginal cost of including natural gas education in the current campaign will be lower than the cost of a whole new natural gas education campaign down the road. Third, and more broadly, recognizing that many consumers think of their home energy purchases in terms of both electricity and natural gas, we believe that the development of a robust natural gas choice market is important to strengthen the retail electricity market, and a comprehensive education campaign will serve that purpose.

We believe that broadening this campaign could be accomplished by simple modifications or additions to the language on the post-cards and letter to mention natural gas. If the Chairman's communication campaign is too far along to make such a change without holding up the launch of the electricity education campaign, we would then recommend that any future consumer education campaigns include natural gas as well as electricity.

## **RETAIL OPT-IN AUCTIONS**

The PEMC recognizes the efforts of the members of the RMI retail auction sub-group, which has put a great deal of thought into considering the issues surrounding a retail opt-in auction. The PEMC believes that a properly designed and implemented auction would be an asset to the further development of the retail electricity market in Pennsylvania. At the same time, we recognize that such an auction is an interim step, and just one such step, on the way towards the final destination. This destination will be a fully competitive marketplace, in which well-educated customers act on their own behalf to select the suppliers, products, and services that best meet their energy needs.

There is broad agreement among stakeholders that the end goal is for consumers to be comfortable with shopping and feel that they are knowledgeable enough to make their own choice for energy. There also seems to be general agreement that additional consumer education is needed to reach that goal. While the PEMC recognizes the considerable efforts of the Commission, Staff, Office of Consumer Advocate, EDCs, and EGSs to enhance competition, educate consumers, and advance the marketplace, the reality is that there are still structural impediments to competition. Many of these impediments are being addressed in this RMI process, but we cannot ignore the fact that many customers in Pennsylvania are still not shopping.

Suppliers appreciate that some consumers may be satisfied with default service and are not interested in switching. But we also know that many consumers may simply be unsure of how to shop; others may not even be aware they have a choice. Still others are concerned that their utility will not respond to outages or emergencies if they do switch, or even that their utility will be economically harmed if they shop. Whatever the reason or

reasons holding back shopping, it seems clear that the market needs a way to “jumpstart” shopping among those who have been unable to get started on their own. A retail opt-in auction could help to serve this purpose.

There are at least two critical questions that must be answered during a serious contemplation of a retail opt-in auction: (1) is this proposal good for customers; and (2) how will this proposal impact the long-term health of the competitive market?

If an auction is designed based on the general principles articulated by the subgroup, it seems clear this proposal will be very good to customers who opt in to the auction. In addition to a signing bonus, customers could receive a one-year, fixed-price contract at or below the default service price. The opt-in nature of the auction will ensure that consumers who do not want to be served by an EGS will not have to participate, and those who do opt in would have the ability to cancel their agreement at any time without penalty. While the details of how an auction would be implemented are certainly complex, they can be addressed. Our only caution is that we work to structure any auction in such a way as to not impede those suppliers who are more than willing – and capable – to take on customers even if they are not participating in an opt-in auction. Additionally, referral programs and other market enhancements should run concurrently with any opt-in auction to enable a rich marketplace full of competitors, for the benefit of the Commonwealth’s customers.

The second critical question is what would be the impact of an opt-in auction on the long-term health of the competitive market in Pennsylvania? There is a risk in providing these attractive incentives to customers to increase participation in an opt-in auction. By emphasizing price savings during the first year of their service by a competitive supplier,

some customers' expectations about the value that EGSs can provide may be skewed. Depending on what happens in the second year, some customers might switch back to default service after the promotional term expires, returning them to where they started before the auction took place.

Despite this risk, the PEMC believes there are three key considerations that will support the benefit of an opt-in auction for the competitive market in the long run. First, the point of the auction is to provide a kick start – to help customers make an initial switch with little risk. After the initial term, whether a customer stays with the EGS, chooses to return to default service, or shops and finds another supplier, the auction will have been successful in getting the customer comfortable with choice and will compel him or her to make a second choice on his or her own. Second, this auction, along with other market enhancements, will give EGSs the incentive to offer competitive offers to attract new customers; it will encourage real competition, which will also lead to competitors introducing more value-added products and services for customers. Third and finally, this auction cannot be an end in itself, but must be part of the larger strategy to reform and advance the retail market. Whether it includes allowing default service to be provided by EGSs, putting a premium on default service to represent the value some customers place on it, or other adjustments to the market, this strategy must include more than an opt-in auction to bring Pennsylvania to the desired end state. An auction can, however, be a powerful tool to encourage customers to take that first step in determining their own energy future and building a truly competitive energy market.

## **DEFAULT SERVICE BEYOND JUNE 1, 2013**

As the Commission considers what the competitive landscape should ultimately look like in the Commonwealth, larger questions beyond consumer education and interim market steps like a retail opt-in auction are rightly being considered.

The PEMC understands the delicate balance the Commission has to strike between ensuring reliability and affordability for customers today, while securing the long-term future of the Commonwealth's energy market. This is not an easy task, but in our view the Tentative Order issued by the Commission last month<sup>1</sup> is a very good step in that direction. We would respectfully suggest, however, that more direct guidance is needed from the Commission to ensure that utilities and suppliers act in the best interest of consumers. In particular, it might be appropriate to not just recommend utilities avoid contracts that overhang the recommended two-year transitional timeframe, but to order them to not enter into such overhanging contracts unless they can demonstrate it is the only way they can meet their statutory obligations. Similarly, while we appreciate the Commission's acknowledgement in the Tentative Order that competitive enhancements like the retail opt-in auction and customer referral program we discussed earlier are welcome, more specific and direct guidance will ensure these enhancements are actually put into place.

Second, the PEMC recognizes that this investigation is ongoing, and that the Commission's final determinations about the future of the market are forthcoming. But as EDCs and EGSs start looking not just to June 2013 but to June 2015 and beyond, prudence requires us to discuss not just how we will get to our destination, but where our final destination actually is. To that end, the PEMC respectfully requests that the Commission

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<sup>1</sup> Tentative Order on Recommended Directives on Upcoming Default Service Plans (I-2011-2237952), Pennsylvania Public Utility Commission, October 14, 2011.

give stakeholders some indication, as soon as possible, to ensure that we all plan appropriately. Specifically, if suppliers will be involved in the provision of default service in June 2015, their business strategy for the next four years may be very different than if default service continues in its present form. Markets thrive on certainty, and certainty is being sought by all parties in this proceeding.

Third, while this process unfolds, we believe Pennsylvania has a unique opportunity to create a truly competitive marketplace for electricity, one in which the incentives for EDCs, EGSs, and customers are all properly aligned. EDCs should continue to focus on their core competency – the safe and reliable transmission and distribution of energy. Similarly, EGSs should be allowed to focus on their strength – the provision of market-based electricity and valuable additional products and services.

As we and other parties have noted, there are a number of tools available to the Commission to bring this end state to fruition: referral programs and opt-in auctions to transfer customers to EGSs; a statewide education campaign to help consumers take hold of their own energy future; and other enhancements. The single most powerful way to bring about a new, more competitive marketplace, however, is to eliminate the old one; to eliminate the status quo. Whether beginning by the auctioning of customer tranches to approved, financially healthy EGSs; adoption of a Supplier of Last Resort model; or putting a premium on EDC-provided default service to represent the value placed on it by some customers, it will take a bold step to transform the marketplace. This must be done, of course, while ensuring consumer rights are protected and the reliability customers have come to enjoy from today's utilities is preserved. But to reach what we believe is the desired end state – a market of empowered consumers choosing among varied, creative and

competitive offers, delivered safely and consistently over the grid – we need to take a bold step.

## CONCLUSION

The PEMC is grateful for the opportunity to provide these Comments as part of the vital discussions taking place in the RMI. The PEMC is committed to doing everything it can to work proactively with all the stakeholders in this process for the good of the Commonwealth and its consumers.

November 23, 2011

Respectfully submitted,

PENNSYLVANIA ENERGY MARKETERS COALITION



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