

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

**COMMENTS OF  
THE YORK COUNTY SOLID WASTE AND REFUSE AUTHORITY**

At its Public Meeting held on April 28, 2011, the Pennsylvania Public Utility Commission (the "Commission") adopted an Order directing initiation of an investigation of Pennsylvania's retail electricity market. The Commission invited comments of interested parties in response to eleven distinct questions.<sup>1</sup>

The York County Solid Waste and Refuse Authority ("YCSWA") appreciates the opportunity afforded by the Commission to present comments in this Investigation Docket and responds accordingly.

**I. THE YORK COUNTY SOLID WASTE AND REFUSE AUTHORITY**

The YCSWA was conceived as a response to negative landfill impact on groundwater and as an alternative waste management program that would be economically and environmentally responsible for York County, Pennsylvania. Accordingly, creation of a waste management authority in York County was one recommendation of a solid waste management plan that was developed in response to the Pennsylvania Solid Waste Management Act.<sup>2</sup> As a result, in 1971 the York County Board of County Commissioners passed a resolution that authorized creation of the YCSWA. The YCSWA was organized that same year as a public corporation under the Pennsylvania Municipality Authorities Act of 1945.<sup>3</sup>

The York County Resource Recovery Center ("YCRRC"), the YCSWA's municipal-waste-to-energy facility, was created in the 1980s as part of the evolving York County alternative

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<sup>1</sup> *Order*, INVESTIGATION OF PENNSYLVANIA'S RETAIL ELECTRICITY MARKET, (PA PUC, Docket No. I-2011-2237952, adopted April 28, 2011), at 2-4.

<sup>2</sup> 35 P.S. § 6018.101, *et. seq.*, as amended.

<sup>3</sup> 53 P.S. § 301, *et. seq.*, as amended.

waste management system. The YCRRC qualified under the Public Utilities Regulatory Policies Act,<sup>4</sup> (“PURPA”) on November 3, 1986, as a qualifying small power production facility (“QF”).<sup>5</sup>

The electric energy output of the YCSWA’s QF is sold to Metropolitan Edison Company (“MetEd”) pursuant to a Power Purchase Agreement (“PPA”) dated November 25, 1986, as amended on April 2, 1993, and June 22, 1994. Unless otherwise extended, the PPA will terminate on December 31, 2016.

Prudence dictates that the YCSWA must embark on a forward-thinking path to identify, explore, and develop all reasonable alternatives that might be available for marketing its electric generation on and after January 1, 2017, since by then its present PURPA-based PPA will have expired. It is to that end that the YCSWA approaches and expresses its interests in the present investigation docket.

## II. COMMENTS

The YCSWA will be commenting only as to Question 6 of the eleven questions stated in the Commission’s Order in this Investigation Docket. Question 6 asked:

***6. Can/should the default service role be fulfilled by an entity, or group of entities, other than the EDC? If the default service role should be filled by an entity other than an EDC, what mechanisms could be employed to transition the default service role away from the EDC and onto competitive electric generation suppliers (EGSs)? Are different approaches appropriate for different customer classes? What criteria should be used to ensure that EGSs are qualified to assume the default service role and maintain reliable service?***

An Electric Distribution Company (“EDC”) is defined – in pertinent part – as, “The public utility providing facilities for the jurisdictional transmission and distribution of electricity to retail customers . . . .”<sup>6</sup>

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<sup>4</sup>16 U.S.C. §824a-3 (2000).

<sup>5</sup>YORK COUNTY SOLID WASTE AND REFUSE AUTHORITY, 37 FERC ¶ 62,100 (1986). On October 11, 1991, the Federal Energy Regulatory Commission granted a request by the YCSWA for recertification to reflect an increase of the QF’s net electric power production capacity to 37 MW. YORK COUNTY SOLID WASTE AND REFUSE AUTHORITY, 57 FERC ¶ 62,023 (1991).

<sup>6</sup> 66 Pa.C.S.A. § 2803; *see, Order, LICENSE APPLICATION OF ENERGY SERVICES PROVIDERS, INC. D/B/A PENNSYLVANIA GAS & ELECTRIC FOR APPROVAL TO OFFER, RENDER, FURNISH OR SUPPLY ELECTRICITY OR ELECTRIC GENERATION SERVICES AS A SUPPLIER AND AGGREGATOR OF RETAIL ELECTRIC POWER, 2011 WL 1924437, Slip Op. at 1 (Docket No. A-2010-2212421, PA PUC, entered May 9, 2011).*

An Electric Generation Supplier (“EGS”) is defined – in pertinent part – as:

A person or corporation, including municipal corporations which choose to provide service outside their municipal limits except to the extent provided prior to the effective date of this chapter, brokers and marketers, aggregators or any other entities, that sells to end-use customers electricity or related services utilizing the jurisdictional transmission or distribution facilities of an electric distribution company or that purchases, brokers, arranges or markets electricity or related services for sale to end-use customers utilizing the jurisdictional transmission or distribution facilities of an electric distribution company.<sup>7</sup>

The Commission’s Default Service tenets require that an EDC, at the conclusion of the applicable restructuring transition period, must serve retail customers who do not choose an alternative EGS or contract for electric energy that is not delivered – thus ensuring that the retail customer will have access to electric generation supply at prevailing market prices.<sup>8</sup> To accomplish that end, a Default Service Provider is responsible for reliable provision of default electric service to retail customers who are not receiving generation services from an alternative EGS within the certificated territory of the EDC that it serves or whose alternative EGS has failed to deliver electric energy.<sup>9</sup>

At present, the YCSWA is neither an EDC nor an EGS. Furthermore, the YCSWA is not likely to ever be an EDC, and through the expiration of the YCSWA-MetEd PPA at the end of 2016, the YCSWA has no intent to become an EGS. However, as discussed above, the YCSWA feels compelled to preserve all possible alternatives for marketing its electric generation beginning on January 1, 2017, and to that end, it is conceivable that the YCSWA could find itself desirous of becoming a licensed EGS effective as of January 1, 2017. If that should occur, the outcome of this Investigation Docket would have a direct impact on the YCSWA and will, even now, impact the YCSWA’s assessment of its alternatives.

The Commission’s Default Service Policy Statement provides that “[T]he goal of the default service regulations is to bring competitive market discipline to historically regulated markets. This can be accomplished by structuring default service in a way that encourages the entry of new retail and wholesale suppliers.”<sup>10</sup> The YCSWA is steadfastly in accord with the

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<sup>7</sup> 66 Pa.C.S.A. § 2803

<sup>8</sup> 52 Pa. Code § 54.181

<sup>9</sup> 52 Pa. Code § 54.184(a)

<sup>10</sup> 52 Pa. Code § 69.1802 (*see, Opinion and Order*, JOINT PETITION OF METROPOLITAN EDISON COMPANY AND PENNSYLVANIA ELECTRIC COMPANY FOR APPROVAL OF THEIR DEFAULT SERVICE PROGRAMS, 2009 WL 3778375, Slip Op. at 19 (Dkt. No. P-2009-2093053, PA PUC, entered Nov. 6, 2009).

Commission's stated goal and with its proposition that the way to accomplish that goal is to encourage the entry of new retail and wholesale suppliers. To that end, regardless of whether or not the YCSWA hereafter determines to apply to become a licensed EGS beginning in January 2017, the YCSWA respectfully submits that it is fundamental to the success of the Commission's default service policies and procedures that competition must be encouraged. Market forces, functioning in a truly competitive market, will be the strongest possible assurance that Pennsylvania's citizens will enjoy reliable access to electric generation at prevailing market prices.

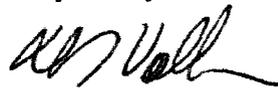
In order to encourage the entry of new retail and wholesale suppliers into the default service marketplace, the Commission should permit the prospective supplier, be it retail or wholesale, to determine of its own accord whether market signals warrant entry into the field of default service, and, if so, provision must be made for a level playing field in order to assure that competition will be nurtured and can survive in something more than name only. As envisioned by the YCSWA, entry into the field of default service by an EGS acting of its own accord would entail allowing an EGS to determine whether it desired to compete in the default service arena rather than making it mandatory that an EGS, by virtue of that status, must compete in the default service arena.

### III. CONCLUSION

The YCSWA looks forward to review and consideration of the Commission's policies on competition in Pennsylvania's retail electricity market in regard particularly as to default service of a reliable and market-priced supply of electricity for the citizens of the Commonwealth of Pennsylvania.

The YCSWA will gladly respond further to any questions the Commission may care to present.

Respectfully,



David E. Vollero  
Executive Director  
York County Solid Waste  
And Refuse Authority

Date: June 3, 2011