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June 3, 2011

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
P.O. Box 3265
Harrisburg, PA 17105-3265

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

Dear Secretary Chiavetta:

Enclosed please find the original and five (5) copies of the Comments of PPL Electric Utilities Corporation and PPL EnergyPlus, LLC for the above-referenced proceeding. Copies will be provided as indicated.

Respectfully Submitted,


Paul E. Russell

PER/skr

Enclosures

cc: Patricia Krise Burket
H. Kirk House
Office of Competitive Market Oversight (via email only)

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

**Comments of
PPL Electric Utilities Corporation
PPL EnergyPlus, LLC**

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TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

1. Introduction

On April 29, 2011, the Pennsylvania Public Utility Commission ("PUC" or the "Commission") entered an Order initiating an investigation "with the goal of making recommendations for improvements to ensure that a properly functioning and workable competitive electricity market exists in the state." *Investigation of Pennsylvania's Retail Electricity Market*, Docket No. I-2011-2237952, Order entered April 29, 2011 ("April 29 Order"). The April 29 Order specifies that the investigation will proceed in two distinct phases. The first phase is designed to assess the status of the current retail electricity market and explore what changes need to be made to allow customers to best realize the benefits of competition. The April 29 Order provides that this phase consists of written comments to be filed by June 3, 2011. To facilitate that effort, the Commission has posed a list of eleven questions to which commenters are asked to respond. After

review of comments, the Commission will initiate a second phase by organizing working groups to be headed by the Commission's Office of Competitive Market Oversight. Those working groups will be tasked with studying how best to address and resolve the issues identified by the Commission as being most relevant to improving the current retail electricity market. The working groups also will provide recommendations outlining specific courses of action the Commission may choose to take. Two *en banc* hearings, one associated with each phase of the investigation, will be held to allow invited parties the opportunity to discuss the topics raised in this proceeding.

PPL Electric Utilities Corporation ("PPL Electric") is a "public utility" and an "electric distribution company" ("EDC") as those terms are defined under the Public Utility Code, 66 Pa.C.S. §§ 102 and 2803, subject to the regulatory jurisdiction of the Commission. PPL Electric furnishes electric distribution, transmission, and default service provider ("DSP") electric supply services to approximately 1.4 million customers throughout its certificated service territory, which includes all or portions of twenty-nine counties and encompasses approximately 10,000 square miles in eastern and central Pennsylvania.

PPL EnergyPlus, LLC ("PPL EnergyPlus") is an "electric generation supplier" ("EGS") as that term is defined under the Public Utility Code, 66 Pa.C.S. § 2803. PPL EnergyPlus has been licensed to provide competitive electricity supply in Pennsylvania since the industry was restructured in 1998. In these comments, PPL Electric and PPL EnergyPlus are referred to as the "PPL Companies."

PPL Electric, PPL EnergyPlus, their parent PPL Corporation, and their predecessors are and have been active supporters of both wholesale and retail electricity competition and the development of customer choice within the Commonwealth. The PPL Companies appreciate the opportunity to participate in this investigation. Because they participate in the Pennsylvania retail electric market as both a regulated EDC and a competitive EGS, the PPL Companies believe that their comments will provide the Commission with a broad and valuable perspective as it moves forward with this investigation.

In this filing, the PPL Companies first provide (in Section 2) general comments on their views regarding the current state of the retail electricity market in Pennsylvania and the impact of default service on that market. In Section 3, the PPL Companies provide their responses to the eleven specific questions raised in the April 29 Order. In Section 4, the PPL Companies identify and discuss other issues, not raised by the eleven questions, which could be impacted by changes to the current structure and roles within the retail electricity market.

2. General Comments

The PPL Companies have been and continue to be enthusiastic proponents of retail electric competition in Pennsylvania. The General Assembly made its support for retail electricity competition clear when it stated in Section 2802 of the Electricity Generation Customer Choice and Competition Act (“Competition Act”) that “it is now in the public interest to permit retail customers to obtain direct access to a competitive generation market” and “competitive market forces are more effective than economic

regulation in controlling the cost of generating electricity." 66 Pa.C.S. §2802. The PPL Companies fully agree with and support these conclusions. Accordingly, they strongly support the Commission's initiative in this proceeding to examine the competitive retail electricity market and identify what changes are required to improve that market. However, such an effort should not be undertaken in a vacuum; it should reflect the broader context of the current state of retail electric competition in Pennsylvania and the potential impact that changes may have on other existing paradigms (e.g., operation of universal service programs). Therefore, prior to responding to the specific questions identified by the Commission, the PPL Companies believe that it is important to review the development of Pennsylvania's competitive retail electricity markets to date and examine several of its most important features.

Current State of Retail Electric Competition

Although generation rate caps have just ended for some of the largest EDCs, early indications suggest that retail electric competition is developing well in parts of the Commonwealth. Today in Pennsylvania, over 1.1 million retail customers representing almost 50% of Pennsylvania's retail electric load are receiving their electricity supply from an entity other than the default service provider according to the Commission's competition website, *www.papowerswitch.com*. Pursuant to the Commission's May 25, 2011 *Weekly PAPowerSwitch Update*, posted on the *papowerswitch.com* website, in the PPL Electric service territory, 95.7 percent of load for the large industrial customer class and 83.2 percent of load for the commercial customer class is being supplied by EGSs. Moreover, as a result of comprehensive educational efforts by PPL Electric and

the Commission, in PPL Electric's service territory, nearly 500,000 residential customers are shopping for their electricity supply, which is equivalent to 42.4 percent of residential customer load. The PPL Companies believe that this data demonstrates that retail electric competition has already established a strong foothold in PPL Electric's service territory. However, the PPL Companies believe that such statistics represent only one measure of the robustness of a retail market. Numbers of competitors and the ability of those competitors to provide products and services that meet the needs of customers are also important indicators of the health of a market. Indeed, during April 2011, there were 36 licensed EGSs serving residential customers in PPL Electric's Service territory and 50 EGSs serving industrial and commercial customers. Further, EGSs are offering a variety of competitive generation products.

Again, as demonstrated by the Commission's May 25, 2011 *Weekly PAPowerSwitch Update*, PPL Electric has the most active retail electric market in Pennsylvania and one of the most active in the United States among states with competitive retail electricity markets. One of the primary reasons for the success of retail choice in PPL Electric's service territory was the Commission's order in *PPL Electric Utilities Corporation Retail Markets*, Docket No. M-2009-2104271 (Order entered August 11, 2009) ("*Retail Order*"). Through its *Retail Order*, the Commission directed PPL Electric to take certain pro-active steps to reduce potential barriers to entry for EGSs in its service territory. The directed actions addressed a wide range of issues including, but not limited to, data access, billing, electronic data interchange and purchase of receivables. The Commission stated that the *Retail Order* was only applicable to PPL Electric, but noted that it hoped the *Retail Order* would serve as a

template or starting point for other EDCs in future proceedings. *Retail Order*, at 2-3, 34. The PPL Companies believe these types of orders should be in place for other EDCs.

To that end, it is the position of the PPL Companies that the Commission should examine the state of retail electric competition in the individual EDC service territories within Pennsylvania. Such a process is clearly contemplated by the Commission's current regulations. As part of its investigation, the Commission could evaluate the following items: (1) each EDC's views on retail electric competition; (2) each EDC's coordination with its generation affiliate(s); (3) the manner in which each EDC evaluates its Provider of Last Resort ("POLR") risk; (4) existing EDC tariff offerings (for example, the need for EDC offered Time of Use ("TOU") rates); (5) each EDC's efforts to coordinate activities with EGSs in its service territory. It is through this type of EDC-by-EDC evaluation that the Commission will be able to garner the information it needs to determine how best to ensure that retail electric competition succeeds in all areas of the Commonwealth. It should be the Commission's goal to create a retail market that is consistent across the EDCs such that it promotes competition, reduces barriers to entry and allows EGSs to better manage costs and services to customers.

An extensive educational campaign, coupled with default service rates above the competitive market offers of EGSs and a pro-active stance relative to retail electric competition all helped to facilitate the development of an active retail electricity market in PPL Electric's service territory. The PPL Companies believe that the experience of PPL Electric and its customers supports the fact that customer familiarity with retail electric competition and default prices, and not necessarily the entity that provides the

default service, drive customers to shop. The PPL Companies believe the Commission does not have to replace PPL Electric as the DSP to achieve a successful retail market in the PPL Electric service territory. However, as will be discussed in greater detail below, the Commission's regulations currently provide a process by which the Commission may evaluate whether to reassign an EDC's default service obligations to potential alternative default service provider(s). 52 Pa Code § 54.183. This regulation adequately provides the Commission and interested parties with a process to identify the need for and to put in place an alternative default service provider(s).

Competitive Markets Require Time to Mature

The PPL Companies firmly believe that competition remains the best model to serve retail electric consumers in Pennsylvania. But, competitive retail electricity markets must be permitted to develop without unnecessary regulatory interference. In some respects, those markets are developing in Pennsylvania. As noted above, since PPL Electric's generation rate cap was lifted in December 2009, a significant percentage of PPL Electric's customers have received, evaluated and accepted competitive retail electric offers.

The current success of retail electric competition in PPL Electric's service territory was achieved with PPL Electric serving as the DSP for its customers. As stated above, the PPL Companies believe that the success of the competitive retail electric market in PPL Electric's service territory is a result of the following contributing factors: (1) PPL Electric transitioned away from generation rate caps nearly two years ago; (2) PPL Electric pro-actively supported the retail electricity market by implementing the

Commission's *Retail Order*; (3) its customers received comprehensive education on Pennsylvania's competitive retail electricity markets; and (4) in 2010 PPL Electric's default service rates were significantly above the then-current market prices being offered by EGSs.

Therefore, since 2007, when PPL Electric announced the results of its initial procurement of default power for 2010 accompanied by education on choice options, PPL Electric's customers have had an opportunity to become acquainted with competitive retail electricity markets and have had the necessary motivation to shop; i.e., above-market default service prices. The existence of a robust competitive retail electric market in PPL Electric's service territory supports the conclusion that a comprehensive customer education campaign and above-market default service prices are the keys to developing competitive retail electricity markets. These factors, particularly a comprehensive customer education campaign, can take time to develop. Based on PPL Electric's experience, encouragement of comprehensive customer education, reduction in barriers to entry, well-defined and broadly distributed customer information, a cooperative approach between EDC and EGSs, and adjustment of default service rates are important first steps to create significant levels of customer interest in shopping in other areas of the Commonwealth. With PPL Electric's anticipation of the expiration of its rate caps and resulting increases in customers' electricity prices and the Commission's *Retail Order*, the retail market developed and suppliers were able to anticipate having access to interested customers through constructive and efficient markets.

Regulated Default Service

The General Assembly was clear in its position that retail customers, particularly residential customers, should have adequate protections in the competitive markets. The Competition Act states that “electric service is essential to the health and well-being of residents . . . and electric service should be available to all customers on reasonable terms and conditions.” 66 Pa.C.S. §2802. An important component of these customer protections is the Provider of Last Resort (“POLR”) function under which a customer who does not obtain electric supply from an EGS can obtain electricity from a DSP. Therefore, changes to the default service function should be carefully considered, and strike a balance between achieving the objectives of the Competition Act and establishing a robust market for those who are able and who will shop for their electricity supply.

The PPL Companies do not believe that the selection of an alternative DSP through a competitive process is equivalent to the regulated POLR supply currently provided by EDCs such as PPL Electric. Specifically, the PPL Companies do not necessarily believe that the selection of an alternative DSP would eliminate the EDC's obligation to be the ultimate POLR provider for its customers. See, *Petition for Approval of PECO Energy Company's Market Share Threshold Bidding/Assessment Process (MST)*; *Petition for Approval of "The Better Choice" Plan to Meet PECO's MST Requirement*, Docket Nos. P-00021984 and P-00021992 (Order entered May 1, 2003). If an alternative DSP exits its role in either an orderly or disruptive fashion, it is the EDC that will serve as the customers' POLR provider. The PPL Companies believe this will

be the result for three reasons: (1) EDCs are certificated and regulated by the Commission; (2) EDCs are familiar with the regulatory processes of the Commission; and (3) EDCs are the entities customers expect to provide adequate service.

Thus, if the Commission elects to reassign an EDC's default service obligations to an alternative DSP, it is the EDC that will remain the POLR. Recognizing that the EDC remains the ultimate POLR, the transfer of default service to another entity may confuse customers. Customer confusion and customer frustration with the retail electric competitive model could result and actually harm continued market development. Therefore, it is important to the continued success of the retail market that the investigation establish a process to address this potential impact and clearly outline the obligations of all parties; DSP, EDC, and EGS.

The Default Service Product

Key attributes of the default service product may have far more influence over customers' shopping behavior than the entity providing default service. In this regard, one of the most important attributes of default service is price. Because default service is intended to be a last resort service, not a competitive alternative, default service prices should track as closely as possible to market prices for electricity. However, default service prices may not accurately reflect changes in market prices if the default service provider purchases its supply under long-term contracts, e.g., 12 or 24 months. Moreover, default service prices do not include all the costs that are incurred by EGSs offering competitive alternatives in Pennsylvania. Specifically, EDCs provide default service to their non-shopping distribution customers at cost, without recovery of a profit

margin. In addition, default service providers do not incur costs to acquire and retain customers, or to advertise and market their service. All of these factors can make it more difficult for EGSs to compete against default service. The PPL Companies believe that modifying the price of default service may enhance the competitive retail electricity market in Pennsylvania. Two possible changes could be a default service price that more accurately tracks changes in market price or a default service price that includes an adder to the market price to provide competitive headroom for EGSs. These options are discussed in more detail below, and the PPL Companies respectfully suggest that these pricing issues are potentially "low hanging fruit" and critical elements of the Commission's investigation.

Further, as evidenced by the amount of shopping, the continuing increase in shopping, the number of competitors, and the continuing development of innovative products in PPL Electric's service territory, the PPL Companies believe the Commission does not have to replace the EDC as the DSP to achieve a successful retail market. The continued development of competitive retail electricity markets relies on elements such as customer education, customer information, market driven default service price, and utilization of technology. Whether markets are robust and competitive is determined more by whether the default service provider embraces these concepts than by who that provider happens to be.

Moreover, the reassignment of an EDC's default service obligations to an alternative DSP will require a comprehensive and expensive redesign of existing

systems and protocols. A decision to re-assign the default service function would require that the following issues be evaluated and modified:

- Default Service: the Competition Act requires that EDCs provide default service for as long as they are recovering stranded costs. Accordingly, under current systems and protocols which were developed during the stranded cost recovery period, customers returning from shopping automatically (and immediately) are returned to the incumbent EDC. 66 Pa. C.S. § 2807(e)(4);
- PJM: the accounting by PJM Interconnection, LLC ("PJM") follows the same principle under which any mismatches between supply and demand are settled to the EDC's account. Many of these systems and protocols will not function correctly if an entity other than the EDC is identified as the default service provider;
- Universal Service: the processes and procedures promulgated by the Commission to protect low-income residential customers constitute another area in which major changes will be required if an entity other than the EDC is authorized to provide default service;
- AEPS Act: the statutory obligation that EDCs comply with the *Alternative Energy Portfolio Standards Act of 2004* (the "AEPS Act"), 73 P.S. § 1648.1, *et seq*; would have to be transferred or modified in some other way;
- Act 129: the requirements of Act 129 of 2008, 66 Pa.C.S. § 2806.1 ("Act 129") providing that: (1) EDCs with more than 100,000 customers to adopt an Energy Efficiency and Conservation Plan ("EE&C Plan"), approved by the

Commission, to reduce electric consumption and peak demand by set percentages in 2011 and 2013; (2) EDCs with more than 100,000 customers to submit for approval a smart meter plan and, with customer consent, make available direct meter access and electronic access to customer meter data to third parties, including electric generation suppliers and providers of conservation and load management services; and (3) default service providers (currently EDCs) submit time-of-use ("TOU") rates and real-time price plans would have to be transferred or modified in some other way.

3. Answers to Questions

1. What is the present status of competition for retail electric generation for customers, by class and service territory, and for alternative suppliers?

The PPL Companies believe that retail competition is extremely successful in PPL Electric's service territory. The May 25, 2011 *Weekly PAPowerSwitch Update* posted on the Commission's website www.PAPowerSwitch.com shows the following shopping activity by PPL Electric's customers:

**Shopping in
PPL Electric Service Area
(updated May 21, 2011)**

Revenue Class	Shopping Customers Number / Percent		Shopping Load Percent
Residential	464,630	37.9	42.4
Commercial	76,358	44.0	83.2
Industrial	2,680	60.8	95.7
Total	543,668	38.7	73.4

Related to the high level of shopping activity by PPL Electric customers is the high level of marketing activity by EGSs. According to PPL Electric's billing records, at least 51 different alternative suppliers served retail customers in the PPL Electric service territory during the month of April 2011. By any measure, these data evidence a robust and vibrant competitive market in PPL Electric's service territory, particularly in light of the fact that the caps on PPL Electric's generation rates expired only 18 months ago.

This success can be attributed to a number of factors. First and foremost, PPL Electric is committed to supporting shopping and the development of retail competition in its service territory and throughout the Commonwealth. For years, PPL Electric has conducted a comprehensive customer education program informing customers about the benefits of shopping and the steps they should take to participate. Moreover, PPL Electric has implemented a number of processes and procedures to support EGS' competitive activities, including: customer switching, customer billing, eligible customer lists and the purchase of customer receivables from suppliers.

The PPL Companies acknowledge that retail competition is less robust in other regions of Pennsylvania. The following tabulates statewide shopping activity as reported on May 25 *PAPowerSwitch*:

**Shopping in
All PA Service Areas
(reported May 25, 2011)**

Revenue Class	Shopping Customers Number / Percent		Shopping Load Percent
Residential	916,496	18.4	19.6
Commercial	206,866	29.1	54.5
Industrial	7,835	59.5	83.1
Total	1,131,197	20.0	49.4

One primary reason may be the generation rate caps discussed above. By creating artificially low default service rates, the rate caps imposed under Section 2804 of the Competition Act, 66 Pa.C.S. §2804, delayed the development of a fully competitive retail market. Those rate caps have just recently ended on December 31, 2010 for PECO and the First Energy companies. Over the next year, the PPL Companies anticipate that retail competition should grow in those areas as customers learn more about their options and EGSs are able to compete against rates that no longer are capped at artificially low levels.

The obvious conclusion from these data is that the state of retail competition in Pennsylvania varies from EDC to EDC. As discussed in responses to the Commission's questions below, there are other variations among EDCs including their default service supply procurements and products. Tariff provisions, billing protocols, customer contact center operations, low-income programs, smart meter deployments and compliance with Act 129 also vary from EDC to EDC. For these reasons, any examination of retail markets must consider not only a Commonwealth-wide market but

also a focused approach to identify and address competitive issues within each EDC's territory. Such an approach may be the most efficient and beneficial for the Commission and stakeholders and is consistent with the Commission's current regulations (e.g., 52 Pa. Code § 54.181, *et seq.*).

2. Does the existing retail market design in Pennsylvania present barriers that prevent customers from obtaining and suppliers from offering the benefits of a fully workable and competitive retail market? To the extent barriers exist, do they vary by customer class?

Answering the above set of questions requires an understanding of what is meant by "a fully workable and competitive retail market". The PPL Companies believe that the retail market as it currently exists in the PPL Electric service territory is a fully workable and competitive market as contemplated by the Competition Act. Specifically:

- It is a market in which customers receive education on the shopping process and their options.
- It is a market in which reliability is maintained.
- It is a market that provides universal service programs to those in need.
- It is a market that permits customers direct access to competitive generation options.
- It is a market in which the EDC, EGSs, and consumer advocates work collaboratively to improve market conditions.

However, the PPL Companies recognize that the retail markets in other EDCs' service territories may not fully reflect all of these characteristics. Retail markets across Pennsylvania continue to evolve and develop on an EDC-specific basis. For these reasons, the PPL Companies believe that modifications to the retail market structure

should be designed on an EDC-specific basis to address issues unique to each EDC's circumstances and then implemented on a state-wide basis if such implementation would benefit the Commonwealth and the retail market.

Beyond these basic features, the PPL Companies believe that the retail electricity market in Pennsylvania, and especially in the PPL Electric service territory, exhibits other characteristics that, although not identified in the Competition Act, were expected to develop with the introduction of competitive forces. These include:

- The presence of a large number of competitive suppliers.
- The development of a variety of products designed to meet customers' needs.
- The development of new services.
- The development of new technologies.

The degree to which the market is fully workable and competitive may vary among the different classes of customers. Clearly, results in all EDC service territories reveal that a greater percentage of large customers is taking competitive supply than of small customers. Some of the reason for this lies in the nature of the customers themselves.

- Larger industrial and commercial customers, driven to reduce costs, are better equipped to shop because they tend to have access to staff and expertise to gather information, and to make informed shopping decisions. Such decisions are not significantly different than other procurement decisions these customers make routinely in the course of conducting business. On the other hand, for residential and small commercial

customers, these tasks tend not to be a high priority and tend to be more challenging.

- Larger customers have greater usage. Consequently, they spend more on electricity and have a greater potential to save a meaningful amount of money than smaller customers.
- Larger customers may have unique usage patterns which may be addressed by unique products offered by EGSs that are very different and more attractive than flat rate products that vertically integrated utilities may have offered prior to deregulation.

This tendency for larger customers to be more active shoppers than smaller customers is even demonstrated within classes. PPL Electric's data reveals that, among residential customers, the usage of shoppers is on the order of 20% higher than the usage of non-shoppers. In spite of these inherent differences, within PPL Electric's service territory, there are a significant number of EGSs serving both residential and non-residential customers – 36 EGSs serving residential customers and 50 EGSs serving industrial and commercial customers during the April, 2011 billing cycle.

The PPL Companies believe, however, that there are some aspects of the retail market design that differ among the customer classes and that tend to impede or promote shopping in one class more than in other classes.

- In the PPL Electric service territory, there have been differences among customer classes in the nature and pricing of default service that have exposed large industrial customers to more volatility and appear to have

driven them to find competitive supply alternatives to a greater extent than small industrial and commercial or residential customers.

- A legacy Residential Thermal Storage pricing structure is being phased out with a discounted default service price which was difficult for EGSs to match or beat.
- Default service providers are required, in service territories in which smart meters have been deployed, to offer TOU pricing which can be very attractive seasonally.
- The ability of shopping customers to return to default service at no cost, *unless an EGS charges a termination fee, creates an asymmetrical* circumstance wherein default service becomes a “free option”. This circumstance is compounded if the default service provider also is offering TOU or other optional default generation products to customers within a class and the customers have the opportunity to move freely and without restriction among those products.

The PPL Companies also believe that there exist, across the service territories, several design elements that affect the full development of the retail market. These include:

- Each EDC has a different schedule for its default service procurements and also procures different products. These differences can cause dislocations in default service prices and may make it difficult for EGSs to compete. More uniform procurement schedules and standardized products may improve the competitive retail market for suppliers.

- Differences in the administration of customer choice by each EDC, even though relatively minor, increase back-office costs for EGSs and limit their potential to serve customers efficiently and profitably.
- *Reconciliation of the costs of default service, while required to assure the default service provider full and timely recovery of the costs of providing the service, may result in negative or positive adjustments to the price to compare that may not be reflective of current market conditions and may be difficult for customers to understand.*
- Finally, the PPL Companies believe that an important element of any fully functioning marketplace is that it continually monitors itself, identifies potential deficiencies, and collaboratively seeks improvement. The PPL Companies believe that this process is occurring, on an ongoing basis, within the PPL Electric service territory through:
 - the efforts of PPL Electric's ombudsman and supplier coordination group;
 - stakeholder meetings to review PPL Electric's EE&C and Smart Meter Plans;
 - proposals made through petitions filed by PPL Electric (for example, Purchase of Receivables), base rate proceedings, and default service proceedings;
 - PPL Electric's response to Commission orders; and
 - PPL Electric's participation and cooperation with the Commission's Office of Competitive Market Oversight ("OCMO"), Committee

Handling Activities for Retail Growth in Electricity ("CHARGE"), and Electronic Data Exchange Working Group ("EDEWG").

In particular, the PPL Companies believe that OCMO plays a key role in addressing some of the more complex issues, especially those involving differences among EDCs, including bringing new services into the market place, coordinating the evolution of smart meter functionality in support of competition, and defining the proper role of competitive metering in a smart meter environment.

- 3. What are the economic and managerial costs associated with electric distribution companies (EDCs) fulfilling the default service role? (See generally 52 Pa. Code §§ 54.182 and 54.184) Are the EDCs accurately passing those costs along to default service customers? Do default service rates include any elements that are not cost-based? Is an examination of distribution rates needed to ensure proper cost allocation? Are there barriers to competition as a result of having EDCs provide default service?**

The price to compare was established in the earliest days of retail competition in Pennsylvania as the benchmark against which customers would compare EGS offers to the option of remaining with the default service provider. The price to compare represented the costs that consumers could avoid by shopping, but it did not necessarily represent the true cost of providing default service because it was simply the sum of capped and administratively unbundled transmission and generation costs. As the generation rate caps have expired and default service providers have gone to the market to obtain generation and have incurred the costs of administering that service, it is becoming clear that default service is not simply an alternative to competitive generation, but a unique service with costs that are not entirely comparable to the costs that a supplier must incur to compete in the retail market. The PPL Companies believe that it is important to understand that default service is not simply

another generation option which customers may select, but a service that is universally available, without limitation, to all customers at their election with little notice of their migration to or from that service. It also is a service that is supported by statute and regulations ensuring that the provider of the service is entitled to full and current recovery of the reasonable costs incurred in providing the service. The following addresses the components of the price to compare, identifies the economic and managerial costs within the price to compare that are associated with default service, and compares those cost elements to those incurred by competitive suppliers.

Transmission Costs

The PPL Companies believe that, because both default service providers and EGSs obtain transmission service pursuant to the PJM Open Access Transmission Tariff ("OATT"), and because there are no distinctions in the OATT that arise from whether a retail load is being served by an EGS or by a default service provider, the transmission costs experienced by default service providers and EGSs are comparable. Transmission rights are a somewhat different matter which, in spite of their name, more directly relate to generation costs and are discussed below.

Generation Costs

- **Energy, capacity, ancillary services, and alternative energy credit costs** are fundamentally functions of the nature of the load being served and the processes and instruments used to acquire those elements. Default service procurements are conducted in accordance with the provider's Commission-approved procurement plan and will reflect the market's assessment of the cost to provide the approved products and quantities of products (spot-

market, full requirements, fixed-block, etc.) to a population of uncertain size and load shape. EGSs follow a similar valuation process to develop costs to serve a retail customer. EGSs also have the ability to design unique products and services for customers thus allowing them to differentiate themselves from default service. The key issue related to generation costs, however, is that the term, price and timing of default service procurements are often such that the price of default service lags price changes in the retail market, thereby, potentially creating booms and busts in retail choice due only to timing. Addressing this issue is an important step of improving retail choice in the near term.

- **Administrative costs** are the costs associated with conducting procurements and administration of the resultant contracts. Default service procurements are conducted in accordance with the provider's PUC-approved procurement plan and may not involve the hedging and sophistication that an EGS plan may involve. As a consequence, default service providers may not experience the same administrative costs as EGSs. Default service providers generally are responsible for settling all energy transactions within their control area at PJM so those administrative costs would not be avoidable generation costs. EGSs, however, do need to pay PJM fees and are likely to incur costs to review and manage their PJM bill. As discussed in more detail below, there are a group of similar administrative costs (customer service, regulatory, management, etc.) that both EGSs and EDCs incur, but which

EDCs typically recover through distribution base rates whereas EGSs must recover such costs through their generation price.

- **Credit costs** are the costs an entity incurs to financially support its energy, capacity, ancillary services, and alternative energy credit contracts. EDCs, because they operate under regulation and the recovery assurances that it provides, typically have less credit support costs than an EGS.
- **Transmission rights** are financial instruments made available by PJM that can be used by load serving entities to hedge congestion costs. Default service providers include the net financial impact of transmission rights in the generation charge. EGSs would reflect in their price the net impact of **transmission rights, risk premium, and administrative costs** employed to manage risk.

Costs Common to both Transmission and Generation

- **Purchase of receivables** applies to both transmission and generation when the default supplier is rendering a consolidated bill that reflects the unbundling of the cost of uncollectible accounts expense. By shopping, a customer is able to avoid the default service provider's uncollectible accounts expense related to transmission and generation and, instead, pay a price to an EGS that reflects the EGS's sale of the customer's receivable to the default service provider at a discount that reflects uncollectible accounts expense.
- **Reconciliation** applies to both transmission and generation and reflects the recovery or refund of amounts that were under- or over-recovered from customers during a prior period. Reconciliation is a mechanism available to

default service providers to provide assurance that costs incurred in providing default service will be recovered. Issues associated with reconciliation, however, are (1) because customers are free to migrate to and from default service, recoveries or refunds may be to or from a different population of customers than the population that created the deficiency or surplus and (2) recoveries will tend to incent customers to shop and credits will tend to incent customers to take default service. Because reconciliation is not available to EGSs, an EGS must resort to the inclusion of a **risk premium** in its price or contract **terms and conditions** to protect against under-recovery.

EGSs also incur certain other costs that default service providers do not incur, *but which must be recovered through their price.* These include **marketing and customer acquisition** and **profit**. And default service providers who also are EDCs incur certain costs in maintaining the competitive environment such as **consumer education** and **eligible customer lists** that EGSs do not incur. Because these costs are incurred to support the retail electric competitive market for the benefit of all customers, they are properly recovered as non-bypassable costs through distribution rates. Both EDCs serving as default providers and EGSs have need of **billing and customer information systems**. Consequently, this is an area where some unbundling may be possible but, such unbundling must be done with care and should reflect true incremental costs, and not average cost, per bill. As an example, the unbundling of billing costs on an average cost basis would, in the extreme, result in no revenues to the EDC serving as default service provider in support of its billing and information system when, in fact, such a system would still be required to conduct its

distribution business and to facilitate energy settlement. Furthermore, a fully functional billing and information system might still be appropriate in recognition of the need for that system to be ready to serve on demand. PPL Electric notes that its current competitive billing credit arose in the context of a settlement of all restructuring issues and is based on average cost and not incremental cost.

The PPL Companies believe that EDCs are accurately passing these costs through to default service customers. The EDCs recover these costs through rates set forth in their retail tariffs which are subject to ongoing review and approval by the Commission. In addition, any automatic adjustment clauses used for recovery of these costs are subject to annual review by the Commission's Bureau of Audits and an annual hearing under Section 1307 of the Code. *All elements of default service rates are cost-based; specifically, charges for generation supply reflect the results of Commission-approved procurements; charges for transmission service reflect billings from PJM under the OATT; and charges for administration reflect costs actually incurred by the EDC to implement its default service program. Because these charges for default service are incurred and booked separately from the costs of providing delivery service, an examination of distribution rates is not needed to ensure proper allocation. The PPL Companies emphasize that default service is fundamentally different from competitive service and that it carries with it an obligation to stand ready to serve on demand*

Finally, the PPL Companies do not believe that having the EDCs provide default service creates barriers to competition. The identity of the default service supplier is not critical. The key consideration is proper design of default service, not as an attractive competitive option, but rather as a last resort service for customers who cannot or will

not purchase supply from an EGS. If default service and default service rates are properly designed, they should not adversely affect customers' ability or desire to choose an alternative supplier and, thus, should not act as a barrier to competition.

4. Are there unintended consequences associated with EDCs providing default service, and related products, such as time-of-use rates?

Consistent with the discussion above, the PPL Companies do not believe that there are unintended consequences associated with EDCs providing default service. However, related products, such as TOU rates, can create some concerns.

Section 2807(f)(5) of the Code, 66 Pa.C.S. §2807(f)(5), requires that, "By January 1, 2010, or at the end of the applicable generation rate cap period, whichever is later, a default service provider shall submit to the commission one or more proposed time-of-use rates and real-time price plans." This section goes on to state, "The default service provider shall offer the time-of-use rates and real-time price plan to all customers that have been provided with smart meter technology under paragraph (2)(iii)." PPL Electric, which has deployed smart meter infrastructure to its entire customer base, has, in accordance with the above provisions and its Commission-approved default service plans, offered both fixed and real-time default service to large industrial and commercial customers, and fixed-price and TOU for small industrial and commercial and, also, residential customers. The availability of optional default service products such as these introduces complexity into the retail market and does have an impact on the ability of EGSs to compete. Some of those consequences (discussed both here and in Section 4 under the headings "EE&C Requirements" and "Time of Use Programs") include:

- Pricing that may vary seasonally and result in the migration of customers to the product when its price is attractive and from the product when other options are more attractive. Among the customers migrating will be customers who would otherwise seek service from an EGS.
- To the extent that the pricing of such products is based on forecasts that must be trued-up, the resultant charges and credits can distort the pricing that the market would produce and exacerbate the migration problem as customers migrate simply to avoid a reconciliation charge or to gain a reconciliation credit.
- Because such programs are aligned with public policy regarding energy efficiency, demand response, and smart meters, there is a basis to argue that they should be promoted and that, since the benefits will be lower market prices for both participants and non-participants, the costs of customer education and promotion should be recovered from all eligible customers. Alternatively, such programs may be viewed as products which compete with EGS offerings and, accordingly, costs should only be recovered from participants.
- Although such programs, especially TOU programs, are aligned with the demand reduction objectives of Act 129 of 2008, funding their promotion with non-bypassable Act 129 funds could be viewed as unfair competition with EGSs offerings. As a result, cost-effective programs ideally suited to meeting a public policy objective might not be available for that purpose.

The PPL Companies strongly believe that default service should be a single “plain vanilla” product that serves as a back-stop for those who cannot or who choose not to seek competitive supply. Default supply is fundamentally not a competitive alternative and should not be viewed as such when considering its procurement, its price, or its terms and conditions. Moreover, default service should not offer different “flavors” representing different terms or pricing options. The PPL Companies also believe that products such as TOU, which in many ways is a product whose development was expected to be encouraged by competition, must be made available to consumers and to EDCs to use to meet Act 129 demand reduction requirements. To the extent that this requires changes in regulation or legislation, the PPL Companies believe that such changes should be pursued.

5. Should default service continue in its current form? Does default service impede competition or otherwise prevent customers from choosing electricity products and services tailored to their individual needs? Does default service provide an advantage to the incumbent EDC and/or its generation affiliates?

At the outset, the PPL Companies believe that, as a practical matter, some form of last resort service is necessary. It is a matter of physical law that customers with electrical loads connected to the energized grid will be served. Unless the customer is disconnected, energy will be generated and delivered to the customer automatically and instantaneously and the generator is entitled to compensation. The generator is a wholesale entity and needs a retail “face” to obtain that compensation. Under Pennsylvania’s retail market construct, that “face” is the default service provider (or provider of last resort) and, in that simple construct, default service does not, in and of

itself, impede customers from choosing an EGS. However, it also clearly allows customers to not shop or to take their time shopping.

The PPL Companies do not believe that default service, as it is structured in Pennsylvania, provides any advantage to the default service provider and, in the event the default service provider is the EDC, neither does it provide an advantage to the EDC or any generation affiliate of the EDC as those entities operate today and within the rules established by the Commission. This opinion is based on the following observations: (1) the requirement under Pennsylvania law that power procured by the default service provider must be procured through an open and competitive bidding process; and (2) the requirement under Pennsylvania law that the default service provider is entitled to full and current recovery of all reasonable costs incurred. As a consequence, the bidders (who may include affiliates of an EDC acting as default service provider) must submit and compete on the basis of their competitive bids and the default service provider can expect to recover from customers the cost of the service as determined by those bids. The PPL Companies do not see this as an “advantage” for the default service provider. Furthermore, the ability of an affiliate to compete will be determined by the price it is able to bid. Its only advantages would be an ability to price its product lower than the products of its competitors.

As noted in the section titled “General Comments” and in its answers to other questions, the PPL Companies believe that the attributes of the default service product have more to do with determining the desire of customers to shop than which entity provides the product.

- 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?**

As detailed above, the PPL Companies do not believe that the Commission, in this general proceeding, should attempt to declare that an entity, other than an EDC, will provide default service in Pennsylvania. Instead, the Commission should evaluate whether to relieve an EDC of its default service obligations and to identify potential alternative default service providers through the Commission's existing regulatory framework. Specifically, Section 54.183(b)(3) of the Commission's regulations provides that the Commission may propose through its own motion that an EDC be relieved of the default service obligation. 52 Pa. Code § 54.183(b)(3). Further, the Commission's regulations provide a process by which the Commission may reassign an EDC's default service obligation for "the entire service territory, or for specific customer classes, to one or more alternative DSPs when it finds it to be necessary for the accommodation, safety and convenience of the public." 52 Pa. Code § 54.183(c). If the Commission determines that a reassignment of an EDC's default service obligation is necessary, the Commission's existing regulations provide for a competitive process to identify and select a suitable replacement for the EDC as the DSP. Specifically, Section 54.183(d) provides:

When the Commission finds that an EDC should be relieved of the default service obligation, the competitive process for the replacement of the default service provider shall be as follows:

(1) An entity that wishes to be considered for the role of the alternative DSP shall file a petition under 66 Pa.C.S. § 2807(e)(3) (relating to duties of electric distribution companies).

(2) Petitioners shall demonstrate their operational and financial fitness to serve and their ability to comply with Commission regulations, orders and applicable laws pertaining to public utility service.

(3) If no petitioner can meet this standard, the incumbent EDC shall be required to continue the provision of default service.

(4) If one or more petitioners meets the standard provided in paragraph (2), the Commission will approve the DSP best able to fulfill the obligation in a safe, cost-effective and efficient manner, consistent with 66 Pa.C.S. §§ 1103 and 1501 (relating to procedure to obtain certificates of public convenience; and character of service and facilities) and 2807(e).

(5) A petitioner approved to act as an alternative DSP shall comply with applicable provisions of the code, regulations and conditions imposed in approving the petition to act as an alternative DSP.

52 Pa. Code § 54.183(d). Consistent with their comments above, the PPL Companies believe that the Commission already has an adequate process by which to evaluate whether to relieve an individual EDC of its default service obligation and to identify potential replacement alternative DSPs, if warranted.

If the Commission determines that an EDC should be relieved of its default service obligations, the PPL Companies have identified the following transition issues for consideration by the Commission:

- If the Commission selects an alternative DSP(s) to replace an EDC, the Commission and interested parties must evaluate the current default service procurement process and requirements. If an alternative DSP is to simply replace the EDC in the existing default service paradigm, it is unlikely that this

will have any impact on Pennsylvania's retail electricity markets. However, any effort to replace an existing default service provider must recognize the existence of valid supply contracts which may "overhang" the end of the approved plan. The PPL Companies believe that all EDCs serving as default service providers have some long-term contracts that, while made during the plan period, stretch beyond that period and into the next plan period. Furthermore, if an alternative DSP is to procure supply in the same manner as EDCs do presently and is required to provide default service at cost, it is unlikely that an entity would be interested in assuming an EDC's default service obligations. Absent an opportunity for alternative DSPs to make a profit, the only reason for a party to assume this role is to establish a relationship with the default customers.

- The existing relationship between the EDC and its customers (including billing, settlement, care, etc.) would be hard to unwind. To do so would require that it be done comprehensively and correctly and could actually harm retail competition if done in a way that is confusing to customers or results in enrollment or billing errors.
- Consistent with the Competition Act, EDCs will remain the distribution or "wires" company for the customers in its service territory. In addition, pursuant to the Competition Act, the EDCs have served as the DSP for their customers. If an EDC were relieved of its default service obligations, it is likely to result in customer confusion and would require a substantial customer education effort to inform customers of the change in

responsibilities and the effect of the change on the service they currently receive.

- It is imperative that the Commission and interested parties thoroughly evaluate potential alternative DSPs. Section 54.183(d)(2) of the Commission's regulations require that alternative DSPs demonstrate their operational and financial fitness. However, at present, no specific standards have been established. Moreover, unless the EDC is required to be the ultimate DSP, customers could be harmed if another entity providing default service goes out of business or leaves the Commonwealth. The Commission and interested parties must evaluate the process(es) required to address both the orderly and unanticipated exit of an alternative DSP.
- If an alternative DSP is selected by the Commission, it will be necessary for the Commission and interested parties to develop an alternative DSP standard of conduct. The relationship between a Commission-selected alternative DSP and its affiliates should be subject to the same level of scrutiny that currently exists for EDCs and their affiliates.
- If an alternative DSP is appointed by the Commission, it may be appropriate to prohibit that DSP from serving shopping customers in the same EDC service territory so as to remove the possibility of an inherent advantage created by the new customer relationship that entity would have as the DSP.
- If an alternative DSP is appointed by the Commission, a thorough analysis of the impact on current protocols for information technology systems and electronic data exchange would be necessary.

7. How can Pennsylvania’s electric default service model be improved to remove barriers to achieve a properly functioning and robust competitive retail electricity market? Are there additional market design changes that should be implemented to eliminate the status quo bias benefit for default service?

As stated in response to Question #2, above, the PPL Companies believe that the retail market as it exists in the PPL Electric service territory is a fully workable and competitive market as contemplated by the Competition Act. And as stated in response to Question #5, the PPL Companies believe that there is no “advantage” or “benefit” that accrues to default providers as a result of the design of default service, specifically, or of the retail electricity market in general. Different designs may result in more or less incentive for customers to shop, but the fact that any customers remain on default service provides no benefit to the default service provider.

As the PPL Companies have commented elsewhere, the following is a list of actions that, if implemented, might lead to more incentive for customers to seek competitive supply:

- As stated in response to Question #2, the PPL Companies believe that there are some aspects of the retail market design that differ among the customer classes that do tend to impede or promote shopping in one class more than in other classes. These include:
 - Differences among customer classes in the nature and pricing of default service that have exposed large industrial customers to more volatility and appear to have driven them to find competitive supply more so than small industrial and commercial or residential customers.

- Legacy rates that may have been phased out with a discounted default price which is difficult for EGSs to match or beat.
- Default service providers are required, in service territories in which smart meters have been deployed, to offer TOU pricing which can be very *attractive seasonally and can be gamed*.
- The ability of shopping customers to return to default service at no cost, unless an EGS charges a termination fee, creates an asymmetrical circumstance wherein default service becomes a "free option". This problem is compounded if the default service provider also is offering TOU or other optional default products to customers within a class and customers have the opportunity to move freely and without restriction among those products.
- As stated in response to Question #3, the PPL Companies believe that there may be areas where a re-examination of default service costs may result in a price to compare that more accurately reflects all of the costs a supplier would bear and that customers could avoid by shopping.
- As stated in response to Question #4, default service providers should only be required to provide a single default service rate for each customer class so as not to incent migration among default service products.
- As stated, below, in response to Question #8, the PPL Companies believe it may be desirable to give consideration in this investigation to: (1) shortening the default supply procurement term in order to cause the default service

price to better track market prices and (2) standardizing procurement timing and products to more closely track market price.

8. What modifications are needed to the existing default service model to remove any inherent procurement (or other cost) advantages for the utility?

In response to Question #3, the PPL Companies identified differences in the costs and procurement associated with default service and those associated with competitive service. As described in the PPL Companies' response, there are differences that cut both ways; meaning there are aspects wherein the default service provider may be better able to control or avoid costs, and others wherein an EGS may be better able to control or avoid costs. That response concluded that there may be *areas where a re-examination of default service costs may result in a price to compare that more accurately reflects all of the costs a supplier would bear and that could be avoided by shopping.*

However, the nature of the default service procurement plan approved by the PUC may produce a price that is more or less attractive to customers. The PPL Companies offer the following observations:

- The "least cost over time" standard for default service is problematic. Because a plan is deemed to meet that standard at the time it is approved, there is no real assurance that it will actually result in a lower cost over time than any other plan. Rather, there is a high likelihood that it will represent a least cost plan based on beliefs and forecasts that exist at that time of approval. At the time of approval, therefore, EGSs, procuring in the same market, may find it difficult to offer a better price to average customers;

although, they may still have plenty of opportunity to offer attractive products to niche customers. As time passes, the default price will change as old products with outdated prices within the plan expire and new ones reflective of current market prices replace them. However, this process will be slow. Thus, shopping can be expected to be cyclical. It will be dominated by niche products early in the plan life, and will come to include more customers if market prices are falling and fewer customers if market prices are rising. In such a world, it can be expected that the number of EGSs may dwindle as competition for niche customers and the cyclical nature of the market shakes participants out of the market. If, alternatively, all procurements in the plan do not expire on a single day but, instead contracts gradually phase out through the early part of the next plan period as they are replaced by newly approved products, then the cycles will be less severe and will simply be dictated by the gradual lag of default service price behind current market price.

- The nature of the products included in a plan also introduces certain problems. A plan consisting exclusively of full requirements contracts will retain a more consistent character over time than a plan that includes fixed purchases or unit-specific purchases. In the case of the former, the relative percentage of the different contracts will remain the same as shopping increases and decreases resulting in a fairly stable price that, as noted above, will lag movement of the market. In the case of the latter, the fixed or unit-specific purchase may be a larger or smaller determinant of price as shopping

increases and decreases resulting in price movement that may not be at all reflective of the current market.

- Because each default supply plan is approved separately and may be different from others, price signals will not be uniform across the Commonwealth which can result in customer confusion and marketing and customer retention inefficiencies for EGSs.

In consideration of the above, the PPL Companies believe it may be desirable to give consideration in this investigation to:

- Shortening the term of default procurement products in order to cause the default service price to better track market prices. For example, a plan consisting only of full requirements products, with contracts of no longer than *one year in duration laddered to replace ¼ of the contracts each quarter* would likely track market prices better than portfolios that consist of various products with longer terms.
- Alternatively, default products with shorter terms (for example, three months) or products that reflect hourly locational marginal prices will more closely track market prices. That benefit, however, will need to be balanced against the increased reliance on reconciliation that the use of such products may create.
- Standardizing default service procurement timing and products to more closely track market price.

9. What changes, to Regulations or otherwise, can the Commission implement on its own under the existing default service paradigm to improve the current state of competition in Pennsylvania?

The Commission has promulgated regulations addressing most aspects of the default service function, including programs, procurement and rates. 52 Pa. Code § 54.181, *et seq.* As addressed previously in these comments, the existing regulations provide an adequate process for the Commission to evaluate whether to reassign the default service obligations of an EDC to an alternative DSP and a procedure for selecting potential alternative DSP(s). Indeed, these regulations are primarily procedural in nature and do not raise any of the interpretation issues discussed below in response to Question #10. Accordingly, there does not appear to be any need to change the regulations to improve the current state of competition in Pennsylvania. However, the PPL Companies have identified two initiatives that the Commission could pursue outside of the regulation context.

First, many of the EDCs' default service procurement plans include a "market threshold" under which a single supplier cannot provide more than a specific percentage of the total default service supply. These "market thresholds" can be applied to an individual procurement or to the sum of all procurements. Frequently, the "market thresholds" are set relatively high, usually in the 75 to 80 percent range. Under this approach, one or two large suppliers potentially could dominate the procurements, making it difficult for smaller suppliers to participate.

To encourage more suppliers to participate in the default service procurements, the existing "market thresholds" could be lowered thereby promoting wholesale competition. However, such a change also could tend to increase default service

supply costs if the amount of supply purchased from the lowest bidder were limited by the lower market threshold. Although PPL Electric has not seen this phenomenon in its default service supply procurements, lowering the "market threshold" limits (to 50 percent, for example) for a single entity serving default supply could encourage greater wholesale competition in Commission-approved default service plan procurements.

Second, under the current default service model, EDCs pass through to default service customers the actual cost of supply without the addition of an amount to cover the costs described in response to Question #3 or retail profit margin. Because EGSs must include a fee to cover costs, including the cost to acquire customers, advertise, and recover a profit margin to stay in business, this model may make it difficult for them to compete against the EDCs' default service rates. A possible solution is to require the EDCs to include an adder on their default service rates. Some or all of the funds collected under such an adder could be retained by the default service provider to compensate it for providing POLR service to its non-shopping customers. In the alternative, a portion of the funds could be used to support and facilitate retail shopping. For example, the funds could be used to offset some of the EGS' costs to acquire customers such as advertising or postage. The funds could be used to educate customers about retail choice and enhance their ability to take advantage of it. Such an approach would have a two-fold benefit: (1) encourage competition and (2) create a cost structure that can be avoided by shopping (and thereby further encourage shopping). If implementation of such an adder were included as a cost of the EDC's Commission-approved competitive procurement plan such an approach probably would comply with Section 2807(e)(3.9) and not require any legislative changes.

10. What legislative changes, including changes to the current default service model, should be made to better support a fully workable and competitive retail market?

As discussed above, the PPL Companies believe that a fully workable and competitive retail market would be enhanced if the rates for default service more accurately reflect current market prices. While there are no provisions in the Public Utility Code that specifically prohibit such a result, two provisions in the Public Utility Code could be interpreted as inconsistent with it.

First, Section 2807(e)(3.2) of the Public Utility Code provides that the electric power purchased for default service must include a prudent mix of spot market purchases, short-term contracts and long-term contracts. 66 Pa.C.S. §2807(e)(3.2). With the exception of certain limits on long-term contracts, the Public Utility Code does not define what constitutes a "prudent mix" and the Commission has reviewed that issue in the context of each EDC's competitive procurement plan. However, an EDC's default service rates should more accurately reflect current market prices if the vast majority of its purchases are from standardized products of shorter duration and the spot market. Although the details of such an approach should be developed in the course of this investigation, the standardized products could be as described in response to Question #8; *i.e.*, only full requirements products, with contracts of no longer than one year in duration laddered to replace $\frac{1}{4}$ of the contracts each quarter. To remove any uncertainty as to whether such an approach would comply with the portfolio requirements of Section 2807(e)(3.2), it would be appropriate to repeal that section of the Public Utility Code.

Second, Section 2807(e)(3.4) of the Public Utility Code provides that the “prudent mix” of contracts discussed above must, among other things, “be designed to ensure the least cost to customers over time.” 66 Pa.C.S. §2807(e)(3.4). Again, the Public Utility Code does not define what constitutes “least cost to customers over time.” It could be argued that short-term contracts and spot market purchases will ensure least cost to customers over time because the prices for those purchases will include little or no risk premium unlike the prices for longer term commitments. However, there are counter arguments, including arguments that such an approach would shift more risk to default service customers and increase the volatility of default service rates. On balance, to more closely match default service rates with changes in market prices, the Commission or an EDC may want to heavily weight default service supply portfolios toward full requirements or spot market products. As with Section 2807(e)(3.2) discussed above, to remove any uncertainty as to whether such an emphasis would comply with the least cost requirement of Section 2807(e)(3.4), it would be appropriate to repeal that section of the Public Utility Code.

Beyond the two procurement provisions discussed above, there are other legislative changes that could support further development of a competitive retail electricity market in Pennsylvania. As discussed above, the PPL Companies believe that default supply is intended to be a last resort service, not a competitive alternative. Accordingly, that supply should be basic service and not include options that compete with products offered by EGSs. For example, TOU rate options go beyond basic service and can compete with EGS products. Section 2807(f)(5) of the Public Utility Code requires an EDC to offer TOU rates to all customers who have been provided with

smart meter technology. 66 Pa.C.S. §2807(f)(5). To avoid interference with the competitive market, this provision of the Public Utility Code should be repealed. Similarly, Section 2806.1(d) of the Public Utility Code requires an EDC to reduce the peak demand of its retail customers by 4.5% by May 31, 2013. 66 Pa.C.S. §2806.1(d). The programs that an EDC would implement to comply with this requirement would change the load shapes of its retail customers and, in that way, could interfere with products and other initiatives offered by EGSs. To avoid such interference with the competitive market, Section 2806.1(d) of the Public Utility Code also should be repealed.

11. Are there, or could there be, potential barriers being created by the implementation of the EDC Smart Meter plans?

The PPL Companies are not aware of any barriers being created by the implementation of the EDC Smart Meter plans. PPL Electric completed the deployment of smart meter infrastructure to its entire customer base in 2004 and has updated its customer information and electronic data interchange systems in order to provide information and data from those systems to EGSs. Smart meter infrastructure supports retail competition and EGSs in several ways. First, historical usage information from smart meters permits EGSs to identify specific customers with specific load shapes that they desire to serve and to market directly to those customers. Second, because the current usage information from the smart meters is used to settle actual hourly energy usage in the PJM market, an EGS will serve the actual hourly usage of the customers it has acquired. Finally, the availability of hourly usage data permits EGSs (and others) to

create new products. The following confirm the use of information derived from PPL Electric's smart meter infrastructure and provided to EGSs:

- During the month of March 2011, PPL Electric responded to over 52,000 requests from EGSs for hourly usage information which EGSs are likely using to identify customers, price products more competitively, and/or bill innovative products.
- During that same month, as part of PJM's settlement process, all of PPL Electric's over 500,000 shopping customer's had their use for the previous month settled on an hourly basis; thereby, assuring the EGSs supplying those customers that they were serving the actual usage of those customers at the time (and at the wholesale price) that usage occurred on an actual basis rather than on an averaged or profiled basis.
- An EGS has recently begun advertising, in the PPL Electric service territory, a demand response product that is available to residential customers and relies on hourly usage data from PPL Electric's smart meter infrastructure.

The PPL Companies acknowledge that additional smart meter functionalities may need to be developed as the definition of a smart meter evolves, but believe that EDCs, EGSs, and appropriate other parties can continue to work collaboratively to implement appropriate functionalities in ways that will not create new barriers. PPL Electric's Commission-approved Smart Meter Plan is actually a series of pilot programs intended to demonstrate and explore with the Commission and stakeholders additional smart meter functionality and to provide an assessment, prior to proceeding on a broad scale, of the benefits and costs of additional functionality. Items like TOU (addressed in the

response to Question #4) or direct load control (addressed in Section 4, below) are examples of the fact that it is not the smart meter infrastructure itself, but the way the infrastructure's functionality is offered in the market, that can lead to unintended consequences. The PPL Companies believe that such consequences can be avoided through continued collaboration among the interested stakeholders with appropriate guidance from the Commission.

4. Other Issues

In the prior sections of these comments, the PPL Companies provided the Commission with their views regarding the current state of the retail electricity market in Pennsylvania and the impact of default service on this market. In addition, the PPL Companies have responded to the specific questions set forth in the Commission's April 29 Order. In this section of the comments, the PPL Companies will address those issues not raised in the eleven questions, which could be impacted by changes to the current structure and roles within the retail electricity market.

Universal Service Programs

Any changes to the current default service paradigm and retail electricity markets will need to address existing billing services, the handling of overdue customer balances (both customers on payment agreements and those not on payment agreements), low-income assistance and energy conservation programs, including EDC payment assistance programs, the application of government assistance funds, including LIHEAP, and low-income usage reduction programs. Specifically, should the Commission determine to relieve an EDC of its default service obligations, the

Commission must determine the allocation of responsibilities between an EDC and an alternative DSP relative to the presentation of and collection of amounts due, universal service programs, and energy conservation programs in effect when the EDC was relieved of its DSP obligation. 52 Pa. Code § 54.184(c). In addition to ensuring that existing universal service and energy conservation programs will continue, the Commission and interested parties will need to address:

- The roles and responsibilities of the EDC, DSP, and EGS in the calculation and presentation of amounts due to customers;
- The roles and responsibilities of the EDC, DSP, and EGS in the collection of amounts due from customers for sales provided by the EDC, for sales provided by the DSP, and for sales provided by the EGS;
- How ability-to-pay programs (such as PPL Electric's OnTrack Program) would be handled in a changed structure and, specifically, whether and how participants would realize savings as a result of engaging a competitive supplier;
- How low income assistance programs would be administered in a changed structure with purchase of receivables programs and the recovery of uncollectible amounts that are ultimately written off;
- How any changes to the retail marketplace structure interface with the requirements of 52 Pa. Code Chapter 56 (Standards and Billing Practices for Residential Utility Service) including, but not limited to, billing, payment, credit, deposits, collections, termination, and complaints; and 66 Pa.C.S. Chapter 14 (Responsible Utility Customer Protection).

Smart meter requirements under Act 129

Act 129 requires EDCs with more than 100,000 customers to submit for approval a smart meter plan and, with customer consent, make available direct meter access and electronic access to customer meter data to third parties, including EGSs and providers of conservation and load management services. 66 Pa. C.S. § 2807(f) (3). The PPL Companies believe that the requirements of Act 129 appropriately recognize that data derived from smart meter systems will be of value to EGSs and should be made available to them and to other providers of energy products and services. As discussed in response to Question #11, the PPL Companies do not believe that this language creates any barriers, potential or otherwise, to the development of the retail electricity market. Furthermore, the Commission's implementation of the Act 129 smart meter requirements, through its June 18, 2009 Implementation Order at Docket No. M-2009-2092655, established specific functional requirements for smart meter systems that addressed, in more detail, the availability of data and functionality in support of competitive markets.

PPL Electric's development of its smart meter infrastructure and the development of competitive products and services that make use of that infrastructure are a clear indication that, at least in PPL Electric's service territory, the deployment of smart meter technology has encouraged rather than impeded the development of competition. The PPL Companies also believe that the information its smart meter infrastructure provides to customers, coupled with PPL Electric's extensive consumer education efforts built on this information, has helped to create a customer base that is more aware of its

electricity use, the cost of that use, and, as a consequence, more receptive to shopping as an option.

For the reasons discussed above, the PPL Companies believe that the development of smart meter infrastructure by EDCs under Act 129 is aligned with and supportive of the development of retail electricity markets and the interests of EGSs. However, the complex nature of smart meter systems would make it very difficult to replace the EDC as the default service provider. The following are examples of that complexity:

- Within the PJM Interconnection, energy settlements are conducted control area-by-control area consistent with the metering and data provided by each control area's EDC. Where smart meter infrastructure is in place, hourly data is the basis for energy settlement. Settlement using hourly data is extremely complex and the integration of meter reading, communication, calculation, and customer information systems is far more critical than in an environment that employs monthly reads and load profiles. Furthermore, that same information must be provided on a consistent basis to EGSs for billing purposes. This becomes particularly critical on those occasions when prior billings must be cancelled and rebilled and the associated settlements must be cancelled and resettled.
- Smart meter infrastructure, as the term implies, is more than just a meter. In order to maximize the functionality of such infrastructure for the benefit of the customers who are paying for it requires that the infrastructure "envelope" include more than providing settlement and billing information in support of

retail electricity competition but, also, extend to other EDC systems that plan the distribution system, operate the distribution system, bill customers, and store and analyze customer information. For example, PPL Electric's Energy Analyzer is not simply a portal to usage data, but an integrated analytical tool that is capable of performing "what if" analyses for customers because it is integrated into other systems. Introducing a separate default provider other than the EDC will make the provision of such functionality, at a minimum, more difficult and costly, and, in the extreme, impossible.

EE&C requirements under Act 129

Conservation and energy efficiency programs in general, and demand response programs in particular, may have more appeal and provide more benefits to customers if offered in concert with generation rates. In response to Question #4, the PPL Companies address the concern raised in this proceeding regarding default service products, such as TOU pricing, on customers and on the market. However, interruptible load programs and load control programs, which are provided under Act 129 by EDCs through Conservation Service Providers, fundamentally alter customer load shapes in response to price and, as a consequence, might more logically be offered as competitive generation products in the retail market.

As noted previously in these comments, Act 129 requires EDCs with at least 100,000 customers, such as PPL Electric, to develop and file an EE&C Plan for Commission approval. 66 Pa.C.S. § 2806.1(b)(1)(i). EDC EE&C Plans are four-year programs designed to achieve the statutory conservation and peak load reduction

requirements, by specified dates, within the specified cost cap. 66 Pa.C.S. § 2806.1(b)-(d). An EDC that fails to achieve the specified minimum reductions in energy consumption and peak demand within the statutory time frames shall be subject to a civil penalty of not less than \$1,000,000 and not more than \$20,000,000. 66 Pa.C.S. § 2806(f). Consistent with Act 129, EDCs filed their 2009-2013 EE&C Plans with the Commission for review and approval.

The PPL Companies believe that the current structure created by the layering of EE&C obligations (through the passage of Act 129) on top of existing default supply rules has created some unintended inefficiency that might be removed to the benefit of the market and customers:

- The intent of TOU programs is to incent customers, through pricing differences, to shift their electricity use from high-priced, peak demand periods to lower-priced, non-peak periods. As noted above in response to Question #4, such programs are aligned with the objective of Act 129 to reduce demand during the top 100 summertime hours of demand because those hours are typically high-priced hours. Accordingly, such programs, utilizing the smart meter functionality that customers, in the case of PPL Electric, already are paying for would appear to be logical candidates for inclusion in EDCs' EE&C Plans. Accordingly, PPL Electric did include a TOU program in its Commission-approved EE&C Plan. However, because TOU programs were subsequently viewed as competing with EGS programs, PPL Electric was prohibited by the Commission's Order of March 9, 2010, at Docket No. R-2009-2122718, from utilizing Act 129 funding to promote the

program, thereby, raising the risk that PPL Electric would not be able to claim the reductions achieved through such a program for compliance purposes. The consequence is to deny (or perhaps delay) customers from receiving the full benefit of the smart meters and to deny EDCs and customers the use of a cost-effective program to achieve reduction obligations.

- As noted above, not just TOU programs, but any program that fundamentally alters a customer's load shape potentially interferes with EGSs' efforts to price service and serve those load shapes. Programs offered by EGSs themselves would be reflected in the pricing available to the customer who is participating in the program. However, such programs may be offered under Act 129 by a Conservation Service Provider or by a Curtailment Service Provider who sells the benefit of the program into the PJM Capacity Market. EGSs and Conservation Service Providers also may be functioning as Curtailment Service Providers in the PJM market and may be selling reductions achieved by their programs into PJM. This layering of programs is likely resulting in economic inefficiency as there may be instances where reductions are being double-counted or where the market may be paying multiple times for the same reduction.

Further, the PPL Companies are concerned about the implications any structural changes to the existing retail markets may have on the EDCs and their Commission-approved EE&C plans. Specifically, if an EDC were to be relieved of its default service obligations, such a change would jeopardize the EDC's ability to successfully operate an EE&C plan. The PPL Companies question whether an EDC could run an EE&C plan

and reduce electric consumption and peak demand to meet the statutorily mandated targets if the EDC is not providing default service. This concern is rooted in the concern raised in the smart meter discussion, above, regarding the integration of systems. Proving compliance with Act 129's EE&C targets requires the collection and analysis of large amounts of data and, especially, usage data. This data collection and analysis effort is fully integrated into an EDC's metering, billing, and customer information systems. The PPL Companies believe that removing the EDC as default service provider introduces new complexity into these already complex systems and will, at a minimum, divert Act 129 resources from customer programs to achieve reductions to administration in order to address this complexity. Further, EDCs currently have contracts in place to comply with the requirements of Act 129 and those contracts and EDCs' ability to comply could be at risk if any structural changes to the retail market are not considered carefully and comprehensively.

Time of Use Programs under Act 129

Pursuant to Act 129, default service providers (currently EDCs) are required to submit TOU rates and real-time price plans. See 66 Pa. C.S. § 2807(f)(5). If the Commission were to relieve an EDC, that presently offers a TOU program, of its default service obligations, the Commission and interested parties will need to evaluate the potential ramifications of such a change on the EDC and its TOU program.

5. Conclusion

As stated above, the PPL Companies fully support the Commission's initiative to examine the retail market in Pennsylvania, and look forward to participating in subsequent phases of this proceeding. The PPL Companies respectfully request that

the Commission consider the comments set forth above as it moves forward with this proceeding. The PPL Companies believe that an evaluation of competitive electricity markets in Pennsylvania, and the implementation of any changes to those markets, should be pursued not only on a state-wide basis, but such an effort should recognize that competition has developed differently in each EDC's service territory, with very high levels of customer shopping in PPL Electric's service area. Moreover, competition has developed differently for each customer class, generally with more shopping activity among customers in the Large Commercial & Industrial customer classes. The PPL Companies respectfully request that the Commission recognize these differences and evaluate retail market activity and the need to implement changes on an EDC-by-EDC basis. Finally, the PPL Companies emphasize that, given the robust retail electric competitive market in the PPL Electric service area, the role of default service provider should not be transferred from PPL Electric to any other entity.

Respectfully submitted,



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