



Forward Thinking Energy



Jay L. Kooper
Director of Regulatory Affairs
Energy Marketing

November 2, 2011

VIA ELECTRONIC FILING AND OVERNIGHT MAIL
Hon. Rosemary Chiavetta
Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

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**PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU**

RE: Docket No. I-2011-2237952 – Investigation of Pennsylvania's Retail Electricity Market – Comments of Hess Corporation in Response To The Commission's October 14, 2011 Tentative Order

Dear Secretary Chiavetta:

Pursuant to the Commission's Tentative Order entered on October 20, 2011 in the above-referenced proceeding, Hess Corporation ("Hess") submits an original and five (5) copies of its written comments in response to the Tentative Order enclosed herein and submits an electronic copy filed through the Commission's e-file system as well as an e-mail courtesy copy to the Office of Competitive Market Oversight.

Kindly date stamp and return in the enclosed self-addressed stamped envelope the extra paper copy enclosed herein. If you have any questions, please do not hesitate to contact me at (732) 750-7048. Thank you for your attention to this matter,

Sincerely,

Jay L. Kooper
Director of Regulatory Affairs

Enclosure

cc: Office of Competitive Market Oversight (via e-mail at ra-OCMO@state.pa.us)

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

**COMMENTS OF HESS CORPORATION IN RESPONSE TO
THE COMMISSION'S OCTOBER 14, 2011 TENTATIVE ORDER**

INTRODUCTION

Hess Corporation ("Hess") submits these comments in response to the Commission's Tentative Order issued on October 14, 2011 in the above-referenced proceeding.¹ In the Tentative Order, the Commission seeks public comment on the recommendations submitted by its Office of Competitive Market Oversight concerning the format and structure for electric distribution company ("EDC") default service plans for the period beginning June 1, 2013. Specifically, the Tentative Order contains the following recommendations for the next EDC default service plans to be filed with the Commission:

- Default service plan time periods of June 1, 2013 through May 31, 2015;
- Expansion of hourly-price default service for medium-sized and large commercial and industrial ("C&I") customers with demand greater than 100 kilowatts ("kW");
- Inclusion of retail opt-in auction and customer referral programs; and
- Incorporation of semi-annual default service rate adjustments and limitation of the use of long-term supply contracts extending past the end date of the default service plan period.

¹ See *Investigation of Pennsylvania's Retail Electricity Market*, Docket No. I-2011-2237952, Tentative Order (entered Oct. 14 2011) ("Tentative Order").

At the outset, Hess notes that several of the recommendations contained in the Tentative Order address issues that Hess discussed in substantial detail in its initial comments filed on June 3, 2011 in this proceeding.² For both purposes of brevity and efficiency Hess incorporates in full the entirety of its Initial Comments in these comments responding to the Tentative Order. In addition, Hess offers the following targeted comments reflecting: (1) support of the Commission's recommendation to explore expansion of the EDCs' hourly-priced default service thresholds to 100 kW; (2) a recommendation to clarify that retail opt-in auctions not apply to medium-sized and large C&I customers above the 100 kW demand threshold; and (3) a recommendation for as much uniformity and transparency as practicable in the next EDC default service plans.

COMMENTS

I. HESS SUPPORTS THE EXPANSION OF HOURLY-PRICED DEFAULT SERVICE TO MEDIUM-SIZED COMMERCIAL CUSTOMERS WITH PEAK LOAD SHARES OF 100 KW AND ABOVE

In its Initial Comments, Hess recommended expansion of hourly-priced default service to commercial customers with a peak load share of 100 kW and higher based upon: (1) the robustness of the retail market for customers already in the hourly-priced default service category; (2) the competitive barriers associated with fixed-price default service, even short-term fixed prices; and (3) the level of sophistication of business customers of this size.³ In the Tentative Order, the Commission supports this recommendation and adds the correct observation that the expansion of hourly-priced

² See *Investigation of Pennsylvania's Retail Electricity Market*, Docket No. I-2011-2237952, Comments of Hess Corporation (filed June 3, 2011) ("Initial Comments").

³ Hess Initial Comments at 3-8.

default service to the 100 kW level can benefit all customers by mitigating higher risk premiums being priced into default service and facilitate more competitive EGS offerings.⁴ For both the reasons set forth in the Hess Initial Comments and by the Commission in the Tentative Order, Hess supports the Tentative Order recommendation in favor of expansion of the current hourly-priced default service thresholds to 100 kW.

II. HESS RECOMMENDS CLARIFICATION THAT RETAIL OPT-IN AUCTION STRUCTURES SHOULD NOT APPLY TO MEDIUM-SIZED AND LARGE C&I CUSTOMERS WITH PEAK LOAD SHARES OF 100 KW AND ABOVE.

In its Initial Comments, Hess argued that retail auction structures should not be utilized for “non-mass market C&I customers” (defined as customers with a peak load share of 100 kW and higher).⁵ The reasoning for this was two-fold. First, C&I customers are businesses with keen eyes on their bottom lines – and therefore are more sophisticated in terms of addressing major cost drivers such as their energy costs. Second, the retail auction structure is fundamentally inconsistent with the core premise of retail competition – customer choice – by ultimately placing customers with an EGS and EGS product that they did not affirmatively choose.⁶

In the Tentative Order, the Commission recommends that the EDCs incorporate retail opt-in auctions because, in the Commission’s view, they can help increase a customer’s awareness for shopping opportunities and provide both savings and certainty to customers not previously exposed to shopping.⁷ In explaining this position, the

⁴ Tentative Order at 8.

⁵ Hess Initial Comments at 9-11.

⁶ *Id.*

⁷ Tentative Order at 5.

Commission provides its vision of what it believes a retail opt-in auction structure is – one in which “an EGS bids to provide competitive retail service to a group of residential and/or small commercial customers within a specific EDC territory who have affirmatively decided to have their accounts included in this group.”⁸ While setting forth this vision, the Commission declines, however, to propose a specific format for opt-in auctions. Instead, the Commission directs EDCs to use, as a starting point, the format being used by a stakeholder subgroup currently operating within this proceeding.

Based on Hess’ concerns with the retail auction concept in general and as applied to medium-sized and large C&I customers – coupled with the Commission’s stated view that retail opt-in auctions should service residential and small commercial customers – Hess believes some clarification is warranted to provide guidance to the stakeholder subgroup reviewing the opt-in auction format. Specifically, Hess recommends that the Commission clarify that any retail opt-in auction program adopted as part of an EDC default service plan should not apply to medium-sized and large C&I customers with a peak load share of 100 kW and higher. Such clarification would also provide some consistency with the Commission’s Tentative Order recommendation in favor of the expansion of hourly-priced default service to a 100 kW threshold, which is designed to apply a proven method for removing barriers to choice for the benefit of medium-sized commercial customers.

⁸ *Id.*

III. THE COMMISSION SHOULD ENSURE THAT DEFAULT SERVICE IS STRUCTURED WITH AS MUCH UNIFORMITY AND UP-FRONT TRANSPARENCY AS PRACTICABLE

Critical to the goal of expansion of the competitive retail market structure in Pennsylvania is the need for uniformity of default service plan terms, conditions and procurement structures across the different Pennsylvania EDC service territories. Historically, the balkanized nature of the Pennsylvania EDC territories has been a source of concern as it has prevented EGSs from benefitting from economies of scale and imposed additional costs that have come with having to navigate several different EDC-specific default service plans. The Tentative Order's adoption of the recommendations for uniform default service terms of June 1, 2013 through May 31, 2015, limitations of short-term contracts extending past the end date of the default service time period, and limitation of long-term contracts is a step in the right direction towards uniformity. Going forward, the Commission, while ensuring default service prices are reflective of the specific market conditions of each EDC's service territory, should ensure that default service terms, conditions and overall procurement structure remain as uniform across the Pennsylvania EDC service territories as practicable.

Equally critical to the Commission's goals in this proceeding is the need for up-front transparency to manage changes in the retail market that impact wholesale suppliers who have successfully bid to procure power for an EDC's default service obligation. Specifically, any retail market transition that produces unexpected changes during the time that wholesale suppliers are fulfilling their contracts with EDCs can negatively impact these suppliers and result in a negatively impacted marketplace as a whole. To address this concern, it is important for the Commission to ensure adequate regulatory

certainty is maintained throughout the retail market transition. Hess therefore recommends that the Commission require EDCs to map out in their default service plans a process to notify potential wholesale supplier bidders that: (1) the Commission is undertaking this investigation of its retail markets; and (2) this investigation may result in the exit of the EDC from the default service function. Such up-front transparency will help suppliers plan accordingly by factoring risk into their bids and ensuring they are prepared if and when the Commission makes final determinations that alter the default service landscape in which they successfully bid. In addition, as this investigation progresses the Commission should seek opportunities for further advance notifications to wholesale and retail market participants as the transition of EDCs out of the default service function takes more specific shape in terms of both timing and structure.

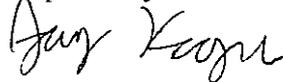
CONCLUSION

Hess appreciates the opportunity to submit these comments and looks forward to further participation in this proceeding.

Dated: November 2, 2011
Woodbridge, New Jersey

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Respectfully submitted,



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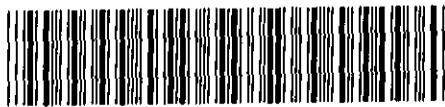
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