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DEC 6 2011

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company For Approval of Their Default Service Programs	:	Docket Nos.	P-2011-2273650
	:		P-2011-2273668
	:		P-2011-2273669
	:		P-2011-2273670

**ANSWER OF THE OFFICE OF SMALL BUSINESS ADVOCATE
TO JOINT PETITION OF METROPOLITAN EDISON COMPANY,
PENNSYLVANIA ELECTRIC COMPANY, PENNSYLVANIA POWER
COMPANY, AND WEST PENN POWER COMPANY
FOR APPROVAL OF THEIR DEFAULT SERVICE PROGRAMS**

Procedural History

On or about November 17, 2011, Metropolitan Edison Company (“Met-Ed”), Pennsylvania Electric Company (“Penelec”), Pennsylvania Power Company (“Penn Power”), and West Penn Power Company (“West Penn”) (collectively, “First Energy” or “the Companies”) filed a Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company for Approval of Their Default Service Programs (“Petition”) with the Pennsylvania Public Utility Commission (“Commission”) pursuant to Section 2801 of the Public Utility Code, 66 Pa.C.S. §2801, as amended by Act 129 of 2008 (“Act 129”), and 52 Pa. Code §§ 54.181-54.189 and 69.1801-1817. The Petition seeks approval of proposed programs to secure default service supply for the Companies’ customers for the period June 1, 2013, through May 31, 2015.

The OSBA files the following Answer in response to the corresponding numbered averments in the Companies’ Petition.

ANSWER

Un-numbered paragraphs on pages one, two, and three

The first un-numbered paragraph describes the filing made by the Companies, and constitutes a prayer for relief to which no response is required.

The second un-numbered paragraph states several conclusions of law to which no response is required, including that the Companies' default service programs contain a "prudent mix of long-term, short-term and spot market generation supply"; that the default service programs yield "the least cost to customers over time"; and that the programs provide "adequate and reliable service." To the extent a response to any of these conclusions of law is deemed necessary, those averments are denied.

I. Introduction

1. Admitted.

2. Admitted.

3. Admitted in part. It is admitted that the Electricity Generation Customer Choice and Competition Act, 66 Pa. C.S. § 2801 *et seq.* ("the Competition Act"), became effective January 1, 1997. The remaining averments of this paragraph describe certain terms of the Competition Act, which, being a writing, speaks for itself, and therefore, no response is required.

4. The averments of this paragraph cite provisions of section 2806(d) of the Competition Act, 66 Pa. C.S. § 2806(d), which, being a writing, speaks for itself, and therefore no response is required. The last sentence of this paragraph references the approval of the Companies' restructuring plans by the Commission, and these averments are admitted.

5. Admitted in part and denied in part. It is admitted that the Companies retained the obligation to serve as default service providers following the transition to competition and that the Companies' current default service plans will expire on May 31, 2013. It is denied that the Companies' default service plans were approved by the Commission as filed.

6. The averments of this paragraph reference the Commission's Regulations, which, being a writing, speaks for itself and therefore, no response is required. The remaining averments of this paragraph constitute a prayer for relief, which requires no response.

7. Paragraph 7 contains a statement of the contents of the Petition, which requires no response.

8. Paragraph 8 describes a proposed submission by the Companies in December, 2011, which presumably will be in writing, and as such, requires no response.

II. The Default Service Procurement Plan

A. Default Service Products

9. The averments of this paragraph describe the types of products that the Companies plan to acquire in their default service plans, and as such, the averments of this paragraph constitute a prayer for relief to which no response is required.

10. The averments of this paragraph outline the obligations of the winning bidders in the procurement process, and therefore, the averments of this paragraph constitute a prayer for relief to which no response is required.

11. The averments of this paragraph describe the obligations of winning bidders to deliver to specific load zones for the four Companies, and therefore, require no response.

Residential Class

12. The averments of this paragraph outline the Companies' plans for procurement for the residential class, and as such, these averments constitute a prayer for relief to which no response is required. To the extent a response is deemed necessary, the averments of this paragraph are denied and strict proof thereof is demanded.

Commercial Class

13. The averments of this paragraph outline the Companies' plans for procurement for the commercial class, and as such, these averments constitute a prayer for relief to which no response is required. To the extent a response is deemed necessary, the averments of this paragraph are denied and strict proof thereof is demanded.

Industrial Class

14. The averments of this paragraph outline the Companies' plans for procurement for the industrial class, and as such, these averments constitute a prayer for relief to which no response is required. To the extent a response is deemed necessary, the averments of this paragraph are denied and strict proof thereof is demanded.

B. Procurement Schedule and Method

15. The averments of this paragraph outline the Companies' plans for two procurements, in November, 2012, and in January, 2013, and as such, these averments constitute a prayer for relief to which no response is required.

16. The averments of this paragraph outline the Companies' plans for obtaining full requirements contract through simultaneous descending-price clock auctions. As such, these averments constitute a prayer for relief, to which no response is required.

17. The averments of this paragraph explain the meaning of “descending-clock” auction, and therefore, no response is required.

18. The averments of this paragraph explain the benefits of the descending clock auction process, and as such, these averments constitute a prayer for relief to which no response is required.

C. AEPS Act Requirements

Non-Solar Photovoltaic Requirements

19. The averments of this paragraph outline how the Companies propose to satisfy their Alternative Energy Portfolio Standards (“AEPS Act”) (73 Pa.C.S. § 1648.1 *et. seq.*) requirements, and therefore, these averments constitute a prayer for relief to which no response is required.

Solar Photovoltaic Requirements

20. The averments of this paragraph continue the description of the proposed RFP method, and as such, constitute a prayer for relief to which no response is required.

21. The averments of this paragraph continue the description of the proposed acquisition of AEPS credits, and as such, constitute a prayer for relief to which no response is required.

22. The averments in this paragraph describe the similarity of the proposed process for acquisition of solar credits to the currently-approved process used by Met-Ed, Penelec, and Penn Power. Therefore, these averments constitute a prayer for relief, to which no response is required.

D. Independent Evaluators

23. The averments of this paragraph name CRA International (“CRA”) as the independent third party evaluator and auction manager for default service supply and for the opt-in auction. The remaining averments of this paragraph that the Companies’ proposal with regard to the use of CRA is consistent with the Commission’s default service regulations and policy statement and with Commission precedent are conclusions of law to which no response is required.

24. The averments of this paragraph name the Brattle Group as the Companies’ choice to evaluate the procurement of SPAECs and to administer the time-of-use auction, and the averments also describe the experience of the Brattle Group. These averments do not require a response.

25. The averments of this paragraph constitute conclusions of law to which no response is required.

E. PJM Requirements

26. The averments of this paragraph with respect to the requirements of PJM constitute conclusions of law to which no response is required. To the extent that the averments of this paragraph describe the Companies’ requirements for suppliers, those requirements are in writing, and as such, require no response.

F. Contingency Plans

27. The averments of this paragraph describe the Companies’ proposed contingency plan, and as such, constitute a prayer for relief, to which no response is required. To the extent

that the averments of this paragraph reference witness testimony, that testimony is not available at this time, and therefore no response to these averments is required.

28. The averments of this paragraph describe the Companies' proposed contingency plan for solicitation that is not fully subscribed, and as such, constitute a prayer for relief, to which no response is required.

29. The averments of this paragraph describe the Companies' proposed contingency plan in the event of the default of a winning bidder, and as such, constitute a prayer for relief, to which no response is required.

30. The averments of this paragraph describe the Companies' proposed contingency plan in the event that a solar photovoltaic alternative energy charge ("SPAEC") solicitation is under-subscribed or has a supplier default, and as such, constitute a prayer for relief, to which no response is required.

III. Rate Design Plan

A. Price to Compare Default Service Rate Rider

31. The averments of this paragraph describe the Companies' current recovery mechanisms for default service costs, and therefore, no response is required.

32. The averments of this paragraph describe the Companies' proposal to change the current Price to Compare ("PTC") Rider for Met-Ed, Penelec, and Penn Power, and, as such, these averments constitute a prayer for relief, to which no response is required.

33. The averments of this paragraph describe West Penn's proposed PTC Rider, which constitutes a prayer for relief, to which no response is required.

B. Hourly Pricing (“HP”) Default Service Rider

34. The averments of this paragraph describe the differences between the Hourly Pricing Default Service Rider currently used by Met-Ed, Penelec, and Penn Power, and the Hourly-Priced Default Service Rider used by West Penn, and therefore, these averments constitute a prayer for relief, to which no response is required.

35. The averments of this paragraph describe West Penn’s proposal to conform its HP rider to the one used by the other three Companies’, and as such, these averments constitute a prayer for relief, to which no response is required.

36. The averments of this paragraph constitute a prayer for relief, to which no response is required.

37. The averments of this paragraph describe further changes to the timing of calculations in the HP riders, which constitute a prayer for relief, to which no response is required.

C. Market Adjustment Charge

38. The averments of this paragraph describe the Companies’ proposed Market Adjustment Charge (“MAC”), and as such, constitute a prayer for relief, to which no response is required. By way of further response, the OSBA questions whether the MAC is permissible under Act 129. To the extent that a response may be deemed to be required, the averments of this paragraph are denied.

D. Default Service Support Rider

39. Admitted.

40.. The averments of this paragraph describe Met-Ed's and Penelec's proposed default service support ("DSS") Riders, and as such, constitute a prayer for relief, to which no response is required.

41. The averments of this paragraph describe Penn Power's proposed DSS Rider, and as such, constitute a prayer for relief, to which no response is required.

42. The averments of this paragraph describe West Penn's proposed DSS Rider, and as such, constitute a prayer for relief, to which no response is required.

43. The averments of this paragraph describe the Companies' proposed rate design for residential and commercial classes, and as such, are conclusions of law to which no response is required. It is implied, but not completely clear from the language of this paragraph that the rate design in question is that for the DSS Riders. To the extent that the averments of this paragraph reference a rate design that is not for the DSS Riders, those averments are denied and strict proof thereof is demanded.

44. The averments of this paragraph constitute a prayer for relief, to which no response is required.

45. The averments of this paragraph constitute a prayer for relief, to which no response is required.

E. Solar Photovoltaic Requirements Charge Rider

46. The averments of this paragraph describe the current Solar Photovoltaic Requirements Charge Rider (“SPVRC Rider”) for Met-Ed, Penelec, and Penn Power, and as such, no response is required.

47. The averments of this paragraph describe Met-Ed, Penelec, and Penn Power’s proposals to assess carrying costs for SPAECs, and as such, these averments constitute a prayer for relief, to which no response is required.

48. The averments of this paragraph describe West Penn’s proposal to assess carrying costs for SPAECs, and as such, these averments constitute a prayer for relief, to which no response is required.

F. Time-of-Use Rates

49. The averments of this paragraph describe the Companies’ current time-of-use (“TOU”) rates, to which no response is required.

50. The averments of this paragraph describe the Companies’ proposed Residential TOU Default Service Rider, and constitute a prayer for relief, to which no response is required.

51. The averments of this paragraph describe West Penn and Penn Power’s selection of an EGS to provide TOU service, and as such, these averments constitute a prayer for relief, to which no response is required.

52. The averments of this paragraph describe the products to be sought by West Penn and Penn Power at auction, and therefore no response is required.

53. The averments of this paragraph describe the requirements for bidders at auction and as such, these averments constitute a prayer for relief, to which no response is required.

54. The averments of this paragraph describe the customer enrollment plans for West Penn and Penn Power and as such, these averments constitute a prayer for relief, to which no response is required.

55. The averments of this paragraph describe the responsibilities of the winning TOU bidder and as such, these averments constitute a prayer for relief, to which no response is required. By way of further answer, it is not clear whether these averments are limited to West Penn and Penn Power, or whether they apply to Met-Ed and Penelec as well.

56. The averments of this paragraph describe the ability of TOU customers to select a different EGS without penalty, and the limitations on customers' returning to TOU service, and as such, these averments constitute a prayer for relief, to which no response is required. By way of further answer, it is not clear whether these averments are limited to West Penn and Penn Power, or whether they apply to Met-Ed and Penelec as well.

57. The averments of this paragraph describe the status of a TOU customer at the end of the enrollment period and as such, these averments constitute a prayer for relief, to which no response is required. By way of further answer, it is not clear whether these averments are limited to West Penn and Penn Power, or whether they apply to Met-Ed and Penelec as well.

58. The averments of this paragraph describe the process of handling customer calls during an enrollment window and as such, these averments constitute a prayer for relief, to which no response is required. By way of further answer, it is not clear whether these averments are limited to West Penn and Penn Power, or whether they apply to Met-Ed and Penelec as well.

59. The averments of this paragraph describe the recovery of the cost of auction and customer information materials and as such, these averments constitute a prayer for relief, to

which no response is required. By way of further answer, it is not clear whether these averments are limited to West Penn and Penn Power, or whether they apply to Met-Ed and Penelec as well.

60. The averments of this paragraph describe the process of providing residential service when no EGSs elect to participate in the auction and as such, these averments constitute a prayer for relief, to which no response is required. By way of further answer, it is not clear whether these averments are limited to West Penn and Penn Power, or whether they apply to Met-Ed and Penelec as well.

F. Reconciliation (Note: the duplication of the section letter “F” is in the Petition)

61. The averments of this paragraph describe the Companies’ proposed PTC Rider and “E” factor, and as such, the averments constitute a prayer for relief, to which no response is required.

62. The averments of this paragraph describe the Companies’ proposal for reconciliation of costs and revenues, and as such, these averments constitute a prayer for relief, to which no response is required.

63. The averments of this paragraph describe the Companies’ proposal for reconciliation of costs and revenues, and as such, these averments constitute a prayer for relief, to which no response is required.

64. The averments of this paragraph describe the Companies’ proposal for reconciliation of costs and revenues, and as such, these averments constitute a prayer for relief, to which no response is required.

65. The averments of this paragraph describe the reconciliation mechanism included in Companies' proposal for the HP Default Service Rider, and as such, these averments constitute a prayer for relief, to which no response is required.

66. The averments of this paragraph describe the Companies' proposal for reconciliation of costs and revenues, and as such, these averments constitute a prayer for relief, to which no response is required.

67. The averments of this paragraph describe the Companies' proposal for reconciliation of costs and revenues, and as such, these averments constitute a prayer for relief, to which no response is required.

68. The averments of this paragraph describe the "E" factor included in the Companies' SPVRC Rider, and as such, these averments constitute a prayer for relief, to which no response is required.

69. The averments of this paragraph describe the Companies' proposal for reconciliation of costs and revenues in the SPVRC Rider, and as such, these averments constitute a prayer for relief, to which no response is required.

70. The averments of this paragraph describe the recovery of over- or under-collection and the effect on the "E" factor, and as such, these averments constitute a prayer for relief, to which no response is required.

G. Tariff Changes

71. The averments of this paragraph constitute a prayer for relief, and as such, no response is required.

72. The averments of this paragraph constitute a prayer for relief, and as such, no response is required.

IV. Retail Opt-In Auction

73. The averments of this paragraph describe the basic “opt-in” service, and as such, constitute conclusions of law to which no response is required.

74. The averments of this paragraph describe the basic “opt-in” auctions, and as such, these averments constitute conclusions of law to which no response is required.

75. The averments of this paragraph describe the eligibility of EGSs to bid in the “opt-in” auctions, and as such, these averments constitute conclusions of law to which no response is required.

76. The averments of this paragraph describe the enrollment window for customers in the “opt-in” auctions, and as such, these averments constitute conclusions of law to which no response is required.

77. The averments of this paragraph describe the recovery of auction costs, and as such, these averments constitute conclusions of law to which no response is required.

78. The averments of this paragraph describe the ability of customers to select a different EGS or default service provider without penalty, and the limitations on return to “opt-in” service, and as such, these averments constitute conclusions of law to which no response is required.

79. The averments of this paragraph describe the responsibility of winning bidders to process customer enrollments, and as such, these averments constitute conclusions of law to which no response is required.

80. The averments of this paragraph describe the status of customers at the end of the 24-month default service period, and as such, these averments constitute conclusions of law to which no response is required.

81. The averments of this paragraph describe the Commission approval of auction results, and as such, these averments constitute conclusions of law to which no response is required.

V. Customer Referral Program

82. The averments of this paragraph constitute a prayer for relief, and as such, no response is required.

83. The averments of this paragraph constitute a prayer for relief, and as such, no response is required.

84. The averments of this paragraph constitute a prayer for relief, and as such, no response is required.

85. The averments of this paragraph constitute a prayer for relief, and as such, no response is required.

86. The averments of this paragraph constitute a prayer for relief, and as such, no response is required.

87. The averments of this paragraph constitute a prayer for relief, and as such, no response is required.

88. The averments of this paragraph constitute a prayer for relief, and as such, no response is required.

89. The averments of this paragraph constitute a prayer for relief, and as such, no response is required.

VI. Additional Issues

A. Commitments From the Merger Settlement

90. Admitted in part and denied in part. It is admitted that the Merger Settlement with respect to the merger of First Energy and Allegheny Energy Inc. took place as described. The question of whether commitments agreed to in the Merger Settlement have been or are being “fully satisfied” is a question of law to which no response is required, and therefore, these averments are denied.

91. The averments of this paragraph regarding voluntary TOU rates constitute a prayer for relief, and as such, no response is required.

92. The averments of this paragraph regarding price to compare structures constitute a prayer for relief, and as such, no response is required.

93. The averments of this paragraph regarding retail market enhancements constitute a prayer for relief, and as such, no response is required.

94. The averments of this paragraph constitute a prayer for relief, and as such, no response is required.

95. The averments of this paragraph constitute a prayer for relief, and as such, no response is required.

96. The averments of this paragraph regarding waivers constitute a prayer for relief, and as such, no response is required.

97. The averments of this paragraph regarding waivers constitute a prayer for relief, and as such, no response is required.

98. The averments of this paragraph regarding waivers constitute a prayer for relief, and as such, no response is required.

B. Investigation of Pennsylvania's Electricity Market

99. The averments of this paragraph describe a statewide investigation of retail electricity markets and the Companies' reservation of rights to update their proposed default service plans due to orders resulting from the investigation. No response is required to these averments.

C. Affiliate Relations

100. The averments of this paragraph request Commission approval of affiliated interest agreements associated with the various programs in the default service proposal, and as such, these averments constitute a prayer for relief, to which no response is required.

101. The averments of this paragraph reference certain requirements of the Commission with respect to generation assets, and as such, these averments constitute a prayer for relief, to which no response is required.

VII. Notice

102. The averments of this paragraph describe the Commission's regulations regarding notice, and as such, no response is required.

103. The averments of this paragraph regarding notice requirements constitute a prayer for relief, and as such, no response is required.

VIII. Proposed Schedule

104. The averments of this paragraph constitute a proposed procedural schedule for this proceeding, to which no response is required. To the extent a response is deemed necessary, these averments are denied. The OSBA will work diligently with the other parties to this proceeding to come up with a mutually agreeable procedural schedule.

IX. Request for Waivers

105. The averments of this paragraph constitute a prayer for relief, and as such, no response is required.

X. Public Interest Considerations

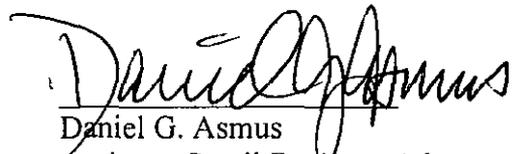
106. The averments of this paragraph constitute a prayer for relief, and as such, no is required. The OSBA is without information or knowledge sufficient to form a belief as to the truth of the averments of the remaining sentences in this paragraph, and therefore, they are denied, and strict proof thereof is demanded.

XI. Conclusion

The averments of this un-numbered paragraph constitute a prayer for relief and conclusions of law. Therefore, no response is required.

WHEREFORE, the OSBA respectfully requests that the Commission refer the Companies' Petition to the Office of Administrative Law Judge for hearings and the preparation of an Initial Decision.

Respectfully submitted,


Daniel G. Asmus
Assistant Small Business Advocate
Attorney ID No. 83789

For:

Steven C. Gray
Acting Small Business Advocate
Attorney ID No. 77538

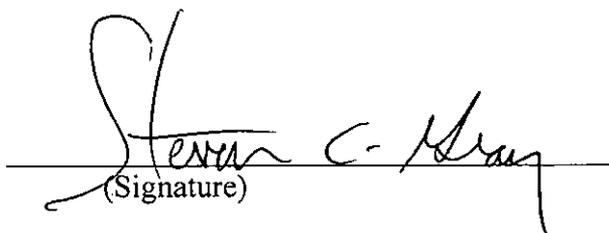
Office of Small Business Advocate
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Harrisburg, PA 17101
(717) 783-2525
(717) 783-2831 (fax)

Dated: December 6, 2011

VERIFICATION

I, Steven C. Gray, hereby state that the facts set forth herein above are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. §4904 (relating to unsworn falsification to authorities).

Date: December 6, 2011


(Signature)

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company For Approval of Their Default Service Programs	:	Docket Nos.	P-2011-2273650
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**PUBLIC STATEMENT
OF THE SMALL BUSINESS ADVOCATE**

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

The Small Business Advocate is authorized and directed to represent the interests of small business consumers of utility services in Pennsylvania under the provisions of the Small Business Advocate Act, Act 181 of 1988, 73 P.S. §§ 399.41 - 399.50 ("Act"). The Act further provides that the Small Business Advocate is to issue publicly a written statement setting forth concisely the specific interest of small business consumers to be protected by his initiation of or intervention in any proceeding involving those interests before the Pennsylvania Public Utility Commission ("Commission") or any other agency or court. This public statement relates to the Small Business Advocate's intervention in the above-captioned Commission proceedings.

On November 17, 2011, Metropolitan Edison Company ("Met-Ed"), Pennsylvania Electric Company ("Penelec"), Pennsylvania Power Company ("Penn Power"), and West Penn Power Company ("West Penn") (collectively, "the Companies") filed a Joint Petition for approval of their default service plans, initiating the above-captioned proceedings to provide default service from June 1, 2013 through May 31, 2015.

The Small Business Advocate is intervening in the above-captioned proceedings in order to protect the interests of the Companies' small business customers. A thorough inquiry by the Commission into all of the elements of the Companies' petition is necessary to ensure that the Companies' proposals for procuring electricity are in accord with the Public Utility Code and with the Commission's regulations and policy statement regarding default service.

In view of the foregoing, the Small Business Advocate is requesting that the petition be subject to investigation and evidentiary hearings before the Commission. The Small Business Advocate will ask the Commission to deny or modify any aspect of the Companies' proposal that is not proven by the Companies to be in accord with the Public Utility Code and with the Commission's regulations and policy statement regarding default service.

Dated: December 6, 2011