

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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IRWINA. POPOWSKY
Consumer Advocate

December 20, 2011

Rosemary Chiavetta
Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

RE: 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

Dear Secretary Chiavetta:

Enclosed please find the Office of Consumer Advocate's Prehearing Memorandum, in the above referenced proceeding.

Copies have been served as indicated on the enclosed Certificate of Service.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Darryl A. Lawrence".

Darryl A. Lawrence
Assistant Consumer Advocate
PA Attorney I.D. # 93682

Enclosures

cc: Hon. Elizabeth H. Barnes
Certificate of Service

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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
	:		P-2011-2273668
	:		P-2011-2273669
	:		P-2011-2273670

PREHEARING MEMORANDUM
OF THE
OFFICE OF CONSUMER ADVOCATE

Pursuant to Section 333 of the Public Utility Code, 66 Pa.C.S. Section 333, and in response to the November 30, 2011 Prehearing Conference Order issued in the above-captioned matter, the Office of Consumer Advocate (OCA) provides the following information:

I. INTRODUCTION

On November 17, 2011, Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company (Met-Ed, Penelec, Penn Power, West Penn or, jointly, the Companies) filed a Joint Petition (Petition) with the Pennsylvania Public Utility Commission (Commission) seeking approval of default service programs (DSPs) and procurement plans for the period June 1, 2013 through May 31, 2015. In their Petition, the Companies propose to acquire supply for residential customers through a series of load-following, full requirements supply contracts in 50 MW tranches. For each residential tranche, 90% of the supply will be at a fixed price, with the remaining 10% priced at the hourly PJM real-time zonal locational marginal price for each of the Companies. These contracts will

include energy, capacity, and transmission service (other than Network Integration Transmission Service).

The new contracts for residential products are proposed to be for a two-year duration, starting on June 1, 2013. The two-year full requirements products are proposed to be procured in their entirety using a descending clock auction through two procurements. The Companies have proposed a Contingency Plan in the event that one or more tranches are not fully subscribed through the procurement process, or in the event that a winning bidder defaults prior to the time for delivery.

To recover their costs for serving residential customers, the Companies propose a quarterly, reconcilable adjustment mechanism. The Companies propose certain rate design changes for the residential and commercial classes, as to the current methods used to compute the Price to Compare (PTC). Other issues, including a Default Service Support Rider, Solar Photovoltaic Requirements Charge Rider and Time of Use Rates, are set forth and described in the Petition. The Petition provides a discussion of commitments that the Companies currently have as to the FirstEnergy and Allegheny Energy Merger Settlement. In addition, the Petition includes proposals for the implementation of a Retail Opt-In Auction and a Customer Referral Program. The Companies are also proposing a Market Adjustment Charge, which would add a 0.5¢ per kWh to the Price to Compare paid by all residential and commercial default service customers.

The Petition was assigned to the Office of Administrative Law Judge and was further assigned to Administrative Law Judge Elizabeth H. Barnes for investigation and the scheduling of hearings. On November 30, 2011, ALJ Barnes issued a Prehearing Conference

Order indicating that an Initial Prehearing Conference was scheduled for December 22, 2011. This Order also detailed the parties' obligations with respect to the Prehearing Conference.

On December 19, 2011, the OCA filed a Notice of Intervention, Public Statement and Answer in response to the Companies' Petition. The OCA submits this Prehearing Memorandum in accord with the Prehearing Conference Order in this matter.

II. ISSUES AND SUB-ISSUES

Based upon a preliminary analysis of the Company's Petition, the OCA has compiled a list of issues that it anticipates will be included in its investigation of the DSP. It is anticipated that other issues will arise and may be pursued as discovery proceeds.

The OCA has identified several issues that may require further review as follows:

- Default Service Products: The OCA will examine whether the type of load following product that the Companies propose to solicit, and the use of only two-year contracts will provide the least cost over time for residential default service customers as required by the Commission's regulations and Act 129. In addition, the OCA will carefully examine the Companies' proposal to charge customers for 10% of the supply based on spot market pricing.
- Procurement Methodology: The OCA will examine the Companies' proposed procurement method of acquiring all residential supply through two descending clock auctions, occurring very close in time, to ensure that the procurement methodology adopted in this proceeding is consistent with the Public Utility Code and is designed to provide the least cost reliable supply, taking into account price stability for customers over time.
- Contingency Plans: The OCA will review the Companies' contingency plan to ensure that it neither abrogates the Commission's review of the plan itself nor relies too heavily on spot market purchases. This plan must be well-defined so that, in the event it is needed, customers are protected by a reasonable "back up" plan that will provide stable rates.
- Reconciliation: The Companies propose a reconcilable generation supply charge that it will adjust on a quarterly basis to recover the costs of serving its default service load. The OCA will examine each cost component as well as the operation of the adjustment mechanism and the quarterly basis for the mechanism. In addition, the impact of reconciliation on both shopping and non-shopping

customers must be considered as the recovery mechanism will serve as the basis for the Price to Compare.

- AEPS: The Companies are proposing that the load-following providers procure the alternative energy credits needed to meet their non-solar obligations under the Alternative Energy Portfolio Standards Act. The OCA will examine this methodology to determine whether it produces the lowest reasonable cost for alternative energy credits and whether it appropriately supports the development of the alternative resources required under the AEPS Act. The treatment of any AECs that Companies receive for existing energy efficiency or demand response programs will also be examined.
- Solar Procurement: The Companies have proposed to meet their solar requirements under the AEPS Act, in part, through an RFP designed to obtain a fixed amount of solar credits over a 10-year period. The Companies have previously committed to supply 40% of the solar photovoltaic requirement as part of the FirstEnergy and Allegheny Energy Merger Settlement. The OCA will examine this proposal to ensure its effectiveness and compliance with the AEPS Act.
- Rate Design: The Companies propose a variety of changes to various riders, including the Price to Compare Default Service Rider, the Hourly Pricing Default Service Rider, the Default Service Support Rider and the Solar Photovoltaic Requirements Charge Rider. The OCA will examine the components, operation and effects of these proposed Riders to ensure compliance with the Public Utility Code.
- Time of Use Rates: The Companies propose to offer a new Time of Use Rate (TOU) program for West Penn and Penn Power. The Petition provides that West Penn and Penn Power seek to adopt a new Residential TOU Default Service Rider that will allow those companies to bid out the TOU service to an EGS. The OCA will review the TOU proposal to ensure its compliance with existing law and the Commission's regulations.
- Retail Opt-In Auction: The Companies propose to implement a retail opt-in auction program for their residential, non-shopping customers. EGSs will bid for the ability to offer generation service to customers who enroll in the program on a percent off the PTC basis for a two-year period. The OCA will examine this proposal to ensure that the costs of this program are appropriately allocated to all stakeholders, to ensure that the program complies with the Public Utility Code, and to ensure that such a program does no harm to default service, consumers, or the retail competitive market.
- Customer Referral Program: The Companies propose to implement a customer referral program to provide information to consumers about shopping opportunities. The Companies propose to target non-shopping, residential

customers who call with a new mover request, a high bill complaint or who make an inquiry about customer choice. The OCA will examine the proposed Customer Referral Program and the costs that may arise from the implementation of such a referral program to ensure that such a program is reasonably designed, cost-justified, and that the costs are allocated appropriately among stakeholders.

- Market Adjustment Charge: The Companies propose to add a 0.5¢ per kWh charge to the Price to Compare for default residential and commercial customers. The Petition provides that the Market Adjustment Charge will “compensate the Companies for the obligation and attendant risk of procuring electric power for customers who choose not to shop”, and will additionally enhance competition by “creating additional ‘headroom’ beneath the price-to-compare for competitive offers.” The OCA will thoroughly investigate this proposal as part of this proceeding. The OCA will examine whether this proposal is in accord with existing law, the Public Utility Code and the Commission’s regulations.

III. WITNESSES

The OCA intends to present the direct, rebuttal, and surrebuttal testimony, as may be necessary, of its witnesses. The OCA’s witnesses will present testimony in written form and will also attach various exhibits, documents, and explanatory information which will assist in the presentation of the OCA’s case. In order to expedite the resolution of this proceeding, the OCA requests that copies of all interrogatories, testimony, and answers to interrogatories be mailed directly to the OCA’s witnesses at the below addresses, as well as mailing a copy to counsel for the OCA.

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Barbara Alexander
Consumer Affairs Consultant

83 Wedgewood Drive
Winthrop, ME 04364
E-mail: barbalex@ctel.net

The OCA specifically reserves the right to call additional witnesses, as necessary. As soon as the OCA has determined whether an additional witness or witnesses will be necessary for any portion of its case, the OCA will promptly notify Administrative Law Judge Barnes and all parties of record.

IV. DISCOVERY

Because the time period for discovery and preparation of testimony is limited, the OCA supports a shortened discovery response time in this proceeding, consistent with the modifications approved in numerous other default service proceedings. The OCA, therefore, requests the following modifications to the discovery regulations:

- A. Answers to written interrogatories be served in-hand within ten (10) calendar days of service of the interrogatories.
- B. Objections to interrogatories be communicated orally within three (3) days of service; unresolved objections be served to the ALJ in writing within five (5) days of service of interrogatories.
- C. Motions to dismiss objections and/or direct the answering of interrogatories be filed within three (3) days of service of written objections.
- D. Answers to motions to dismiss objections and/or direct the answering of interrogatories be filed within three (3) days of service of such motions.
- E. Responses to requests for document production, entry for inspection, or other purposes be served in-hand within ten (10) calendar days.

- F. Requests for admission be deemed admitted unless answered within ten (10) days or objected to within five (5) days of service

V. PROPOSED SCHEDULE

The OCA would note that the Companies have filed the instant Petition without any testimony in support of their proposed DSPs. The Petition provides a proposed procedural schedule that indicates the Companies intend to submit such supporting testimony on December 20, 2011, over a full month after the date that the Petition was filed. Based on the proposed procedural schedule, parties would have barely one month after the receipt of the Companies' testimony to conduct discovery and prepare direct testimony in response. The OCA submits that such a schedule significantly compromises the ability of intervening parties to investigate, analyze and make the necessary evidentiary presentation on the many complex, significant and new issues presented by this default service filing.

The OCA will work with ALJ Barnes and the parties to arrive at a reasonable procedural schedule, one that affords the parties a meaningful opportunity to be heard and to participate fully in this matter.

VI. SERVICE ON OCA

The OCA will be represented in this case by Aron J. Beatty and Darryl Lawrence.

Two copies of all documents should be served on the OCA as follows:

Aron J. Beatty
Assistant Consumer Advocate
Office of Consumer Advocate
555 Walnut St., 5th Floor, Forum Place
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As a courtesy, the OCA requests that all electronic correspondence be additionally copied to Darryl Lawrence (DLawrence@paoca.org) and Cammie A. Shoen (CShoen@paoca.org).

VII. ADDITIONAL ISSUES

In the Prehearing Conference Order, the parties were directed to specifically address the following issues:

(a) Whether the four dockets should be consolidated into one case.

The OCA submits that these four dockets share common elements of fact and law, and for purposes of judicial and administrative efficiency, the OCA would not object to their consolidation.

(b) The possibility for settlement of the proceeding, subject to the Commission's approval.

The OCA is willing to participate in settlement discussions at the appropriate time.

(c) Whether the matter should be decided upon legal briefs, or whether a hearing is necessary.

The OCA submits that the complex issues of fact and policy presented by this Petition will require evidentiary hearings in order to build a full and complete record for the Commission's review.

(d) If a hearing is required, a procedural schedule will be discussed including the amount of hearing time necessary to dispose of the proceeding.

The OCA will work with ALJ Barnes and the parties to arrive at a mutually agreeable procedural schedule.

(e) Arrangements for the submission of direct testimony of witnesses in writing in advance of the hearing to the extent practicable, and for the submission in advance of

hearing of written requests for information which a party contemplates asking another party to present at hearing.

The OCA intends to submit all witness testimony in writing, in advance of the hearings, and in accord with the procedural schedule established herein.

(f) Other matters that may aid in expediting the orderly conduct and disposition of the proceeding and the furtherance of justice, including, but not limited to the following:

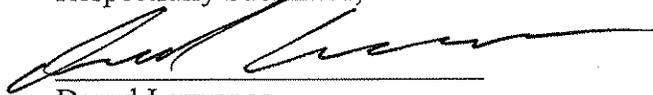
- (i) The exchange and acceptance of exhibits proposed to be offered into evidence.**
- (ii) The obtaining of admissions as to, or stipulations of, facts not remaining in dispute, or the authenticity of documents which might properly shorten the hearing.**
- (iii) The limitation of the number of witnesses.**
- (iv) The discovery or production of data or other material.**

The OCA has proposed certain modifications herein to the Commission's discovery regulations in order to more expeditiously examine and review this matter.

VIII. PUBLIC INPUT HEARINGS

At present, the OCA has not received a request for a public input hearing. The OCA will promptly notify ALJ Barnes and request a public input hearing should circumstances warrant.

Respectfully Submitted,



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Dated: December 20, 2011

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CERTIFICATE OF SERVICE

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

I hereby certify that I have this day served a true copy of the foregoing document, the Office of Consumer Advocate's Prehearing Memorandum, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code §1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 20th day of December, 2011.

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National Utility Service, Inc.
1 Maynard Drive
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Make The Switch USA, LLC
13 Great Meadow Road
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Metromedia Power, Inc.
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Eatontown, NJ 07724

Mondre Energy, Inc.
1800 John F. Kennedy Blvd. - #1504
Philadelphia, PA 19103

Muirfield Energy, In.
5850 Venture Drive – Suite C
Dublin, OH 43017

National Energy Management, LLC
12407 N. Mo Pac Expressway - #100-348
Austin, TX 78758

North American Power and Gas, LLC
One Marshall Street
South Norwalk, CT 06854

Northeast Energy Partners, LLC
174 South Road
Enfield, CT 06082

Paragon Advisors, LLC
1730 Park Street - #100
Naperville, IL 60563

Pepco Energy Services, Inc.
1300 North 17th Street - #1600
Arlington, VA 22209

NextEra Energy Services, PA, LLC
P.O. Box 14000
Juno Beach, FL 33408-0420

On-Demand Energy, Inc.
1 North Shore Ctr - #101
Pittsburgh, PA 15212

Palmco Power PA, LLC
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Patriot Energy Group, Inc.
1 Rounder Way - #200
Burlington, MA 01803

PES Brokers, Inc.
1305 FM 359 – Suite H
Richmond, TX 77469

Platinum Advertising II, LLC
P.O. Box 3223
Clearwater Beach, FL 33767

PPL Energy Plus, LLC
P.O. Box 25225
Lehigh Valley, PA 18002

Premier Power Solutions, LLC
107 Breckenridge Street
Grove City, PA 16127

Priority Power Management, LLC
310 W. Wall - #500
Midland, TX 79701

Options Consulting Services
1331 Conant Street
Maumee, OH 43537

Planet Energy (Pennsylvania), Corp.
10 Kingsbridge Garden Circle - #800
Mississauga, Ontario L5R 3K6

Power Brokers, LLC
5440 Harvest Hill Road - #260
Dallas, TX 75230

Premier Energy Group, LLC
1275 Bound Brook Road - #6
Middlesex, NJ 08846

Price Point Energy
3320 Forest Road
Bethel Park, PA 15102

Public Power, LLC
39 Old Ridgebury Road - #14
Danbury, CT 06810

Reflective Energy Solutions, LLC
1 University Plaza - #407
Hackensack, NJ 07601-6204

Reliant Energy Northeast, LLC
1201 Fannin Street – 5th Fl.
Houston, TX 77002

Rosenthal Energy Advisors, Inc.
1412 Main Street - #2100
Dallas, TX 75202

School Power, Inc.
315 Fuller Road
P.O. Box 686
Dalton, PA 18414

Rescom Energy, LLC
15 Prospect Street
Paramus, NJ 07652

Respond Power, LLC
100 Dutch Hill Road - #310
Orangeburg, NY 10962

Provident Energy Consulting, LLC
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Rapid Power Management, LLC
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Dallas, TX 75287

Reliable Power, LLC
1040 Avenue of the Americas
New York, NY 10018

Resource Energy Systems, LLC
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Houston, TX 77042-3227

Richards Energy Group, Inc.
781 South Chiques Road
Manheim, PA 17545

Satori Enterprises, LLC
815 West Superior Street - #1
Chicago, IL 60642

Secure Energy Solutions, LLC
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East Longmeadow, MA 01028

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South Jersey Energy Co.
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The Galt Company, LLC
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Stream Energy Pennsylvania, LLC
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Technology Resource Solutions, Inc.
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Texzon Utilities, Ltd.
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Red Oak, TX 75154

Total Energy Resources, LLC
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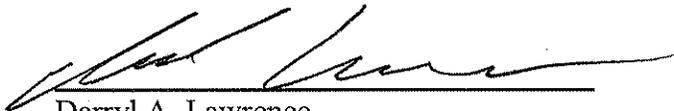
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