

THE PENNSYLVANIA UTILITY LAW PROJECT
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January 12, 2011

Via E-Filing

Secretary Rosemary Chiavetta
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

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**

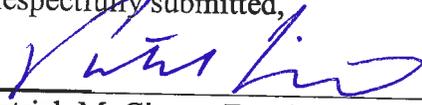
Docket Nos. P-2011-2273650
P-2011-2273668
P-2011-2273669
P-2011-2273670

Dear Secretary Chiavetta:

Enclosed for filing please find the Motion to Dismiss the Objections of the Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, and West Penn Power Company to the Interrogatories (Set I) of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania ("CAUSE-PA").

Kindly notify the undersigned if you have any questions or concerns about this filing.

Respectfully submitted,



Patrick M. Cicero, Esquire
Harry S. Geller, Esquire
Counsel for CAUSE-PA

CC: Hon. Elizabeth H. Barnes, ALJ
Certificate of Service

**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

Certificate of Service

I hereby certify that I have this day served copies of the foregoing document, upon the following parties as set forth below in accordance with the requirements of 52 Pa. Code § 1.54:

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DATE: 11/21/12

**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

**MOTION TO DISMISS
OBJECTIONS OF METROPOLITAN EDISON COMPANY, PENNSYLVANIA ELECTRIC COMPANY, PENNSYLVANIA POWER COMPANY AND WEST PENN POWER COMPANY TO THE INTERROGATORIES (SET 1) OF THE COALITION FOR AFFORDABLE UTILITY SERVICES AND ENERGY EFFICIENCY IN PENNSYLVANIA**

Pursuant to 66 Pa. C.S. § 333(d), 52 Pa. Code § 5.342, and the Scheduling Order issued by the Honorable Elizabeth H. Barnes, Administrative Law Judge, the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA) files this Motion to Dismiss the Objections of the Metropolitan Edison Company (“Met-Ed”), Pennsylvania Electric Company (“Penelec”), Pennsylvania Power Company (“Penn Power”) and West Penn Power Company (“West Penn”) (collectively the “First Energy Companies” or “Companies”) to certain Interrogatories propounded by CAUSE-PA, and in support thereof, avers as follows:

Introduction and Background

1. On November 17, 2011, the Companies filed a Joint Petition for Approval of their Default Service Programs (“Joint Petition”).
2. In their Joint Petition, the Companies seek, among other things that the Commission approve their proposed Opt-In Auction and Customer Referral Program, as well as their request to add a \$0.005 per kWh Market Adjustment Charge (“MAC”) to the charges assessed to their default service customers.

3. On Monday December 19, 2011, CAUSE-PA filed a Petition to Intervene in the captioned proceedings and an Answer to the Joint Petition filed by the Companies.

4. In its Answer, CAUSE-PA, stated, among other things, the following:

CAUSE-PA intends to examine both the hazards and benefits that this [Opt-In Auction] would have for low-income residential customers and submits that the Companies should be required to demonstrate that each component of their opt-in auction proposal is permissible under current law and regulations and that the process proposed adequately safeguards the rights of all residential customers, particularly low-income and otherwise vulnerable customers. Furthermore, the Companies should be required to demonstrate how their Universal Service Programs would be fully integrated into their proposed auction structure without any reduction of benefits and safeguards to Universal Service Program participants.

...

CAUSE-PA intends to examine the appropriateness of including calls regarding high bill complaints, as well as the appropriateness of how questions and applications concerning universal service are handled and coordinated through this call center in a customer referral program.

(CAUSE-PA Answer at 4-5.)

5. On December 20, 2011, the Companies filed and served the direct testimony of seven witnesses, together with accompanying exhibits, including the testimony of Charles V. Fullem.

(Met-Ed/Penelec/Penn Power/West Penn Statement No. 7 (“Companies’ St. No. 7”).)

6. In his testimony, Mr. Fullem states that the Companies’ proposed Opt-In Auction program would be open to “[a]ll residential customers, including those on customer assistance programs.” (Companies’ St. No. 7 at 23:20-21.)

7. Mr. Fullem further states that this proposal is limited to residential customers because they are “fairly homogenous as a group.” (Id. at 24:14.)

8. In his testimony concerning what will happen to these auction participants at the end of the auction period, Mr. Fullem states that “the customer will remain with the EGS that previously provided service under the opt-in program.” (Id. at 27:8-9.)

9. In describing the Companies’ proposed Customer Referral Program, Mr. Fullem states that the program would be open to “[r]esidential customers that contact the company regarding a high bill complaint or new service request.” (Id. at 28:17-18.)

10. While he does not specifically mention that this program is open to customers who are enrolled in the Companies’ customer assistance programs, his testimony does not preclude this possibility and implies that these customers, like other residential customers, are eligible to participate.

11. In describing the Companies’ proposed implementation of the MAC, Mr. Fullem states that the Companies’ propose to add a bypassable charge of \$0.005 per kWh to be recovered from the residential and commercial classes. (Id. at 11:3-8.)

12. On December 22, 2011, a Prehearing Conference was held before ALJ Barnes at which time ALJ Barnes granted CAUSE-PA’s Petition to Intervene and established a litigation schedule. The litigation schedule was memorialized in the ALJ’s Scheduling Order dated December 23, 2011.

13. On Friday, January 6, 2012, CAUSE-PA issued interrogatories (Set I) to the Companies.

14. On Monday, January 9, 2012, counsel for the Companies contacted counsel for CAUSE-PA to note the Companies’ oral objections to CAUSE-PA Interrogatories (Set I) Nos. 1.c. through j., 2 and 3.

15. Counsel for CAUSE-PA and counsel for the Companies spoke by telephone on January 10, 2012 and January 11, 2012 in an effort to resolve the Companies' objections. However, on January 11, 2012, the Companies' filed their written objections to CAUSE-PA Interrogatories (Set I) Nos. 1.c. through j., 2 and 3, on the grounds of relevance. A copy of the Companies' written objections is attached hereto as Appendix A.

16. Pursuant to the ALJ's Scheduling Order, CAUSE-PA files this Motion to Dismiss the Companies' objections.

Legal Standard

17. Section 333(d) of the Public Utility Code states, in relevant part, that "[a]ny party to a proceeding may serve written interrogatories upon any other party for purposes of discovering relevant, unprivileged information." 66 Pa. C.S. § 333(d).

18. The Commission's regulations at 52 Pa. Code § 5.321(c) define the permissible scope of discovery in proceedings before the Commission to include discovery regarding "any matter, not privileged, which is relevant to the subject matter involved in the pending action, *whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of another party.*" (Emphasis added).

19. Evidence is relevant if it tends to establish facts in issue. See Jo Anna Warren Williamson v. Duquesne Light Company, 2011 WL 1210916 at * 3 (Pa. P.U.C., Feb 10, 2011) (citing LeRoi v. Pa. State Civil Service Commission, 34 Pa. Commonwealth Ct. 190, 382 A.2d 1260 (1978)).

Discussion

20. In its Interrogatories (Set I) Nos. 1.c. through j., CAUSE-PA seeks the following information:

For each of the four Companies provide the following annual information as of December 31st of for the years 2008, 2009, 2010, and 2011. If the information is not available for December 31, 2011 please provide the information for November 30, 2011 and provide the December 31, 2011 number when it becomes available:

...

- c. Number of customers enrolled in CAP;
- d. Average estimated monthly electricity usage for CAP customers;
- e. The annual energy burden (i.e., percent of total household income spent on electricity) for average residential household and for CAP households;
- f. Number of CAP customers who are defaulted from CAP because:
 - a. They missed CAP payments;
 - b. They did not pay full CAP payments;
 - c. Other reasons.
- g. Number of customers who received a LIHEAP grant of any kind;
- h. Number of confirmed low-income customers;
- i. Number of customers who are on payment agreements;
- j. Number of confirmed low-income customers on payment agreements.

21. The Companies object to providing this information because “the questions inquire into subjects that are not relevant to any matters properly at issues in this proceeding,” and “the inquiry is being addressed in pending proceedings before the Commission at other dockets.” (Companies’ Objections, ¶ 8.)

22. CAUSE-PA submits that the Companies are wrong in both of these assertions and that the information sought is relevant to establish facts in issue.

23. The information sought is relevant to the question of whether the Commission should permit CAP customers, LIHEAP recipients or other low-income customers to participate in either the Opt-in Auction or the Customer Referral Program.

24. The Companies have sought to portray residential customers as “fairly homogenous as a group,” (Companies’ St. No. 7 at 24:14), and that consequently, it is appropriate that all residential customer, including CAP customers, be permitted to participate in the Retail Opt-in auction and Customer Referral Programs proposed by the Companies. The information requested is sought to receive data in order to evaluate the accuracy of the statement and whether or not it is correct and/or misleading.

25. Certainly, whether a sub-group of residential customers should or should not be included in the group of customers who are eligible for either an opt-in auction or a referral program is within the scope of this proceeding.

26. Moreover, the Commission itself has recognized that this very issue would be raised in the individual Electric Distribution Companies’ Default Service Plans.

27. In its Tentative Order entered December 16, 2011, issued in connection with its Investigation of Pennsylvania’s Retail Electricity Market: Intermediate Work Plan (“Intermediate Work Plan Order”), the Commission sought comments from interested parties on the scope of customer participation in a retail opt-in auction and customer referral plan.

28. In discussing the customer referral plan, the Commission stated: “The eligible customer base for the Standard Offer Customer Referral Program is recommended to be residential customers on default service at the time of the contact. We anticipate that issues involving CAP customer participation will be addressed in the individual default service proceedings.” Intermediate Work Plan Order at 21 (emphasis added).

29. Additionally, the Commission, in discussing the opt-in auction, recommended that all residential customers be eligible to participate, but recognized that “[p]ossible exceptions are those customers in CAP programs or in exotic rate classes.” Id. at 26.

30. Thus, there are open questions about the scope and participation of groups of low-income customers in the auction and referral proposals advanced by the Companies in their Joint Petition and testimony.

31. The information sought will shed light onto the unique usage patterns and potential vulnerability of low-income customers which in turn will inform the testimony of CAUSE-PA’s witnesses concerning their recommendation as to whether, and if so, under what conditions, these customers should be permitted to participate in these programs.

32. Furthermore, this information is also necessary to analyze and evaluate the effect of the Companies’ proposed addition of a MAC in the amount of \$0.005 per kWh and whether or not it may significantly, and perhaps disproportionately, affect the energy burden levels and affordability of service for various segments of the low-income population.

33. The Companies objections to CAUSE-PA interrogatories 2 and 3 are similarly unfounded.

34. In those interrogatories, CAUSE-PA seeks the following information:

2. For the years 2008 through 2011, have any of the companies received complaints from CAP customers who have enrolled with an EGS? If so, please list:
 - a. A brief description of the nature of the complaints.
 - b. The number of complaints for each category listed in a. above for each year per company;
3. In answering this Interrogatory, please refer to your response to OCA Interrogatory Set I, No. 20. How many CAP customers who switched to an EGS have utilized dual billing? If this information is not available for

CAP customers as a discrete population, please answer the question for all residential customers?

35. CAUSE-PA Set I Interrogatory number 2 seeks information concerning complaints from CAP customers who have enrolled with an EGS on their own. CAUSE-PA submits that this information is relevant to evaluate whether CAP customers have had positive, negative, or neutral experiences with being served by EGS.

36. This information is needed to evaluate whether there are coordination or other problems when CAP participants enroll with an EGS, if there are coordination issues regarding CAP benefits and credits and EGS enrollment, as well as whether CAP customers have benefitted from shopping.

37. All of this is relevant to the question of whether these customers should or should not be permitted to participate in either the opt-in auction or the customer referral programs proposed by the Companies.

38. CAUSE-PA Interrogatory No. 3 is relevant for the same reasons.

39. In their response to interrogatories propounded by the Office of Consumer Advocate, the Companies indicated that CAP customers of West Penn Power who are served by an EGS who utilized dual billing would face “a substantial decrease in their benefit during the next recertification.” (See Companies’ Response to OCA Interrogatory, Set I, No. 20, attached hereto as Appendix B.)

40. In seeing this response, counsel for CAUSE-PA legitimately seeks information about the number of CAP customers who have enrolled with an EGS and who have utilized dual billing.

41. Again, this information is sought in order to make a reasoned determination as to whether or not these customers should participate, and if so, under what terms (including the billing terms), in the opt-in auction and customer referral programs.

42. CAUSE-PA does not seek any of the information in these interrogatories in order to challenge or question the structure of the Companies Universal Service programs, and other low-income programs; but rather, CAUSE-PA seeks the information requested because the current state of customers enrolled in or receiving benefits from the Companies' low-income universal service programs is relevant to whether it would or would not benefit these customers to participate in the proposed auction and referral programs.

43. The Commission has indicated it expects these issues to be addressed within the context of EDCs' default service proceedings and, thus, the information sought is relevant to the issues in this proceeding.

WHEREFORE, for all of the foregoing reasons, CAUSE-PA respectfully requests that the Honorable ALJ grant its Motion to Dismiss the Companies' objections and Order the Companies to furnish the information sought in CAUSE-PA Interrogatories (Set I) Nos. 1.c through j., 2 and 3.

Respectfully submitted,
PENNSYLVANIA UTILITY LAW PROJECT
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DATE: January 12, 2012

APPENDIX A:

**OBJECTIONS OF METROPOLITAN EDISON COMPANY, PENNSYLVANIA ELECTRIC COMPANY,
PENNSYLVANIA POWER COMPANY AND WEST PENN POWER COMPANY TO THE
INTERROGATORIES (SET 1) OF THE
COALITION FOR AFFORDABLE UTILITY SERVICES AND ENERGY EFFICIENCY IN PENNSYLVANIA**

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

JOINT PETITION OF METROPOLITAN	:	
EDISON COMPANY, PENNSYLVANIA	:	
ELECTRIC COMPANY, PENNSYLVANIA	:	DOCKET NOS. P-2011-2273650
POWER COMPANY AND WEST PENN	:	P-2011-2273668
POWER COMPANY FOR APPROVAL OF	:	P-2011-2273669
THEIR DEFAULT SERVICE PROGRAMS	:	P-2011-2273670

**OBJECTIONS OF
METROPOLITAN EDISON COMPANY,
PENNSYLVANIA ELECTRIC COMPANY,
PENNSYLVANIA POWER COMPANY,
AND WEST PENN POWER COMPANY**

**To The Interrogatories (Set I)
Of The Coalition For Affordable Utility Services And
Energy Efficiency In Pennsylvania**

Pursuant to 66 Pa.C.S. § 333(d) and 52 Pa. Code § 5.342, Metropolitan Edison Company (“Met-Ed”), Pennsylvania Electric Company (“Penelec”), Pennsylvania Power Company (“Penn Power”), and West Penn Power Company (“West Penn”) (each individually a “Company” and, collectively, the “Companies”) hereby object to Interrogatories (Set I) Nos. 1.c. through j., 2 and 3 propounded by the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (“CAUSE-PA”) on January 6, 2012. A copy of CAUSE-PA’s Interrogatories (Set I) is attached as Appendix A.

In summary, the Companies object to the Interrogatories identified above because they request extensive, detailed, multi-year information (*e.g.*, usage levels, payment and compliance history, benefits received) about customers that participated in the Companies’ Customer Assistance Programs and/or received Low Income Home Energy Assistance Program

("LIHEAP") grants and, as such, CAUSE-PA's Interrogatories inquire into subjects that: (1) are not relevant to any matters properly at issue in this proceeding; and (2) are addressed in pending proceedings at separate dockets that specifically pertain to the Companies' low-income Customer Assistance Programs. In short, CAUSE-PA is trying to interject subjects and issues that are not properly within the scope of this proceeding. Consequently, all discovery related to such extraneous subjects and issues should be stricken. *See, e.g., Pa. P.U.C. v. Pennsylvania-American Water Co.*, Docket Nos. R-00932670, *et al.*, 1994 Pa. PUC LEXIS 120 (Order entered July 26, 1994) ("*Pennsylvania-American Water Co.*") (matters at issue at another docket were properly excluded from the proceeding, as to which they were only tangentially related).

As discussed above, it is critically important to adhere to the proper scope of this proceeding and to clearly establish that issues outside the scope of this case may not be interjected by CAUSE-PA or any other party. To that end, the Companies are submitting these objections to ensure that they will not be deemed to have waived objections to the improper expansion of the scope of this proceeding. Nonetheless, the Companies are willing to provide the requested information, to the extent it is reasonably available to them, subject to the caveat, which must be expressly acknowledged by CAUSE-PA, that the Companies' furnishing of such information: (1) is not a concession that the matters CAUSE-PA is inquiring into are properly within the scope of this case; and (2) is done without prejudice to the Companies' right to object to further discovery by CAUSE-PA (or any other party) on the grounds that such discovery seeks to inquire into matters, including subjects related to low-income Customer Assistance Programs and LIHEAP grants that, in the Companies' view, are not properly part of this case.

INTRODUCTION

1. On November 17, 2011, the Companies filed with the Pennsylvania Public Utility Commission (“Commission”) the *Joint Application of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company for Approval of Their Default Service Programs* (“Joint Application”). In their Joint Application (pp. 2-3), the Companies requested, in pertinent part, that the Commission approve their: (1) proposed Default Service Programs, including their procurement and implementation plans and associated agreements to obtain default service supply for the period from June 1, 2013 through May 31, 2015; (2) proposed rate design and associated tariffs to recover the Companies’ costs to provide default service; (3) proposed Opt-In Auction and Customer Referral Program; and (4) proposed “bid-out” time-of-use (“TOU”) service for West Penn and Penn Power. In addition, the Companies requested that the Commission grant various other approvals and make various findings necessary to fully implement their proposed Default Service Programs. *Id.*

2. On December 20, 2011, the Companies filed and served the direct testimony of seven witnesses, as set forth in written statements identified as Met-Ed/Penelec/Penn Power/West Penn Statement Nos. 1 through 7, together with accompanying exhibits.

3. Pursuant to the Administrative Law Judge’s (“ALJ”) Prehearing Order issued November 30, 2011, a Prehearing Conference was held on December 22, 2011, at which a litigation schedule was established for this proceeding. This schedule was adopted by the ALJ and outlined in the Scheduling Order issued on December 23, 2011.

4. As previously noted, on January 6, 2012, CAUSE-PA issued its Interrogatories (Set I) containing Interrogatories i.c. through j., 2 and 3, to which the Companies hereby object.

5. Section 333(d) of the Public Utility Code states, in pertinent part, as follows:

Interrogatories. – Any party to a proceeding may serve written interrogatories upon any other party for purposes of discovering *relevant*, unprivileged information.

66 Pa.C.S. § 333(d) (emphasis added)

6. The Commission's regulations at 52 Pa. Code § 5.321(c) define the permissible scope of discovery in proceedings before the Commission as follows:

Scope. Subject to this subchapter, a party may obtain discovery regarding any matter, not privileged, *which is relevant to the subject matter involved in the pending action*, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of another party, including the existence, description, nature, content, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of a discoverable matter. It is not ground for objection that the information sought will be inadmissible at hearing if the information sought appears reasonably calculated to lead to the discovery of admissible evidence. (Emphasis added.)

OBJECTIONS

7. CAUSE-PA Interrogatory (Set I) No. 1 states as follows:

For each of the four Companies provide the following annual information as of December 31st . . . for the years 2008, 2009, 2010, and 2011. If the information is not available for December 31, 2011 please provide the information for November 30, 2011 and provide the December 31, 2011 number when it becomes available:

- a. Number of residential customers;
- b. Average estimated monthly electricity usage for all residential customers;
- c. Number of customers enrolled in CAP;

- d. Average estimated monthly electricity usage for CAP customers;
- e. The annual energy burden (i.e., percent of total household income spent on electricity) for average residential household and for CAP household;
- f. Number of CAP customers who are defaulted from CAP because:
 - a. They missed CAP payments;
 - b. They did not pay full CAP payments;
 - c. Other reasons.
- g. Number of customers who received a LIHEAP grant of any kind;
- h. Number of confirmed low-income customers;
- i. Number of customers who are on payment agreements;
- j. Number of confirmed low-income customers on payment agreements.

8. The Companies object to CAUSE-PA Interrogatory (Set I) No. 1, subparts c. through j., because: (1) the questions inquire into subjects that are not relevant to any matters properly at issue in this proceeding; and (2) the subject of CAUSE-PA's inquiry is being addressed in pending proceedings before the Commission at other dockets.

a. CAUSE-PA Interrogatory (Set I) No. 1, subparts c. through j., seeks extensive, detailed, multi-year information about low income customers, customers participating in the Companies' Customer Assistance Programs and recipients of LIHEAP grants, including information about usage levels, benefits, payment history and rates of default.

b. As previously explained, this proceeding involves the Companies' request for approval of their Default Service Programs, which consist of their proposals to procure

default service generation supplies on behalf of their default service customers and to recover the costs of providing default service. The Companies have not proposed any change in their respective Customer Assistance Programs in this case.

c. The terms of the Companies' low-income Customer Assistance Programs are not at issue in this case and, in fact, are outside the scope of this proceeding. As previously noted, the Companies' low-income Customer Assistance Programs are currently the subject of separate proceedings pursuant to the Commission's triennial reviews of Met-Ed's, Penelec's and Penn Power's Universal Service and Energy Conservation Plans for 2012 through 2014 and West Penn's Universal Service and Energy Conservation Plan for the period ending 2013. *See Metropolitan Edison Company, Pennsylvania Electric Company and Pennsylvania Power Company Universal Service and Energy Conservation Plan for 2012-2014 Submitted in Compliance with 52 Pa. Code § 54.74, Docket No. M-2011-2231038; West Penn Power Company's Amended Universal Service and Energy Conservation Plan, Docket No. M-2010-2207924.*

9. The scope of permissible discovery in a proceeding before the Commission is limited to subjects that are relevant to matters properly at issue in such proceeding, as provided in 66 Pa.C.S. § 333(d) and the Commission's regulations at 52 Pa. Code § 5.321(c). *See* Paragraph Nos. 5 and 6, above. Accordingly, for the reasons set forth in Paragraph No. 8, above, CAUSE-PA's Interrogatories (Set I) No. 1, subparts c. through j., are not permissible discovery and, therefore, should be stricken.

10. Additionally, as also discussed previously, CAUSE-PA seeks to inquire into matters that are the subject of a separate, pending proceeding and, therefore, are not properly within the scope of this proceeding. It is well established that matters outside the scope of a

proceeding cannot be “relevant” to that proceeding and, therefore, are not a valid subject for the introduction of evidence or the issuance of discovery. *See, e.g., Re Gas Cost Rate No. 5*, 57 Pa. P.U.C. 158, 160 (1983) (“The testimony stricken by the ALJ addresses, in part, matters broader than the scope of the instant proceeding.”); *Pennsylvania-American Water Co.* at 158 (“The ALJ concluded as follows: ‘I agree with OTS that the issues raised by OCA are outside the scope of this investigation. . . .’ ”); *Re Structural Separation of Bell Atlantic-Pennsylvania, Inc. Retail and Wholesale Operations*, Docket No. M-00001353, 2000 Pa. PUC LEXIS 59 at 7-9 (Order entered September 28, 2000) (affirming the Administrative Law Judge’s decision to reject evidence as “beyond the scope of the proceeding.”).

11. CAUSE-PA Interrogatory (Set I) No. 2 states as follows:

For the years 2008 through 2011, have any of the companies received complaints from CAP customers who have enrolled with an EGS? If so, please list:

- a. A brief description of the nature of the complaints.
- b. The number of complaints for each category listed in a. above for each year per company{.}

12. The Companies object to CAUSE-PA Interrogatory (Set I) No. 2 for the same reasons set forth in Paragraph Nos. 8-10, above. This question deals fundamentally with matters that pertain to the operation of the Companies’ Customer Assistance Programs and, therefore, seeks to inquire into matters that are not relevant and, in fact, are outside the scope of this proceeding. The fact that the question tangentially relates to the practices of electric generation suppliers (“EGSs”) and the relationship between EGSs and recipients of low-income assistance does not bring the subject of CAUSE-PA’s inquiry within the scope of this proceeding.

13. CAUSE-PA Interrogatory (Set I) No. 3 states as follows:

In answering this Interrogatory, please refer to your response to OCA Interrogatory Set I, No. 20. How many CAP customers who switched to an EGS have utilized dual billing? If this information is not available for CAP customers as a discrete population, please answer the question for all residential customers?

14. The Companies object to CAUSE-PA Interrogatory (Set I) No. 3 for the same reasons set forth in Paragraph Nos. 8-10, above. This question deals fundamentally with matters that relate to the structure and operation of the Companies' Customer Assistance Programs and, therefore, inquires into matters that are not relevant and, in fact, are outside the scope of this proceeding. The fact that the question tangentially relates to a form of billing for generation service provided by EGSs to recipients of low-income assistance does bring the subject of CAUSE-PA's inquiry within the scope of this proceeding.

CONCLUSION

WHEREFORE, for the foregoing reasons, the objections of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company to CAUSE-PA's Interrogatories (Set I) Nos. 1 c. through j., 2 and 3 should be granted, and the ALJ should issue an Order directing that the Companies are not required to furnish answers to those Interrogatories.

Respectfully Submitted



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Dated: January 11, 2012

APPENDIX A

INTERROGATORIES (SET I)
OF
THE COALITION FOR AFFORDABLE UTILITY SERVICES
AND ENERGY EFFICIENCY IN PENNSYLVANIA

**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

**INTERROGATORIES OF
THE COALITION FOR AFFORDABLE UTILITY SERVICES
AND ENERGY EFFICIENCY IN PENNSYLVANIA**

SET I

Pursuant to 52 Pa. Code § 5.341 and the Prehearing Order modifying the discovery timetable, the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA) hereby propound the following Interrogatories to Metropolitan Edison Company ("Met-Ed"), Pennsylvania Electric Company ("Penelec"), Pennsylvania Power Company ("Penn Power") and West Penn Power Company ("West Penn") (collectively the "First Energy Companies" or "Companies") to be answered by those officers, employees, agents, or contractors who have knowledge of the requested facts and who are authorized to answer on behalf of the Companies.

Pursuant to the expedited discovery rules set out in Part IV of the Office of Consumer Advocate's ("OCA") Prehearing Memorandum, and incorporated by ALJ Dunderdale in her Prehearing Order, responses to these interrogatories are due within ten (10) calendar days of service.

INSTRUCTIONS

1. These interrogatories shall be construed as a continuing request. The Respondent is obliged to change, supplement and correct all answers to interrogatories to conform to available information; including such information as first becomes available to the Respondent after the answers hereto are filed.
2. Restate the interrogatory immediately preceding each response.

3. Identify the name, title, and business address of each person(s) providing each response.

4. Provide the date on which the response was created.

5. Divulge all information that is within the knowledge, possession, control, or custody of the Companies or may be reasonably ascertained thereby. The term "Metropolitan Edison Company," "Met-Ed", "Pennsylvania Electric Company," "Penelec", "Pennsylvania Power Company," "Penn Power," "West Penn Power Company," "West Penn," "First Energy Companies," "Companies," "you" as used herein, includes First Energy Companies or the Companies its attorneys, agents, employees, contractors, or other representatives.

6. Provide a verification by the responsible witness that all facts contained in the response are true and correct to the best of the witness' knowledge, information and belief.

7. As used herein the word "document" or "workpaper" includes, but is not limited to, the original and all copies in whatever form, stored or contained in or on whatever media or medium including computerized memory, magnetic, electronic, or optical media, regardless of origin and whether or not including additional writing thereon or attached thereto, and may consist of:

- a. notations of any sort concerning conversations, telephone calls, meetings or other communications;
- b. bulletins, transcripts, diaries, analyses, summaries, correspondence and enclosures, circulars, opinions, studies, investigations, questionnaires and surveys;
- c. worksheets, and all drafts, preliminary versions, alterations, modifications, revisions, changes, amendments and written comments concerning the foregoing.

Interrogatories

1. For each of the four Companies provide the following annual information as of December 31st of for the years 2008, 2009, 2010, and 2011. If the information is not available for December 31, 2011 please provide the information for November 30, 2011 and provide the December 31, 2011 number when it becomes available:
 - a. Number of residential customers;
 - b. Average estimated monthly electricity usage for all residential customers;
 - c. Number of customers enrolled in CAP;
 - d. Average estimated monthly electricity usage for CAP customers;
 - e. The annual energy burden (i.e., percent of total household income spent on electricity) for average residential household and for CAP households;
 - f. Number of CAP customers who are defaulted from CAP because:
 - a. They missed CAP payments;
 - b. They did not pay full CAP payments;
 - c. Other reasons.
 - g. Number of customers who received a LIHEAP grant of any kind;
 - h. Number of confirmed low-income customers;
 - i. Number of customers who are on payment agreements;
 - j. Number of confirmed low-income customers on payment agreements.
2. For the years 2008 through 2011, have any of the companies received complaints from CAP customers who have enrolled with an EGS? If so, please list:
 - a. A brief description of the nature of the complaints.
 - b. The number of complaints for each category listed in a. above for each year per company;
3. In answering this Interrogatory, please refer to your response to OCA Interrogatory Set I, No. 20. How many CAP customers who switched to an EGS have utilized dual billing? If this information is not available for CAP customers as a discrete population, please answer the question for all residential customers?

4. In answering this Interrogatory, please refer to your response to OCA Interrogatory Set I, No. 20. How many EGSs utilize dual billing for residential customers?
 - a. Do any of the EGSs which utilize dual billing for residential customers, require the use of dual billing? If so how many?
5. In answering this Interrogatory, please refer to your response to OCA Interrogatory Set I, No. 20. Describe why a CAP customer who has switched to an EGS and utilizes dual billing would "see a substantial decrease in their benefit during the next recertification."
6. In answering this Interrogatory, please refer to your response to OCA Interrogatory Set I, No. 20. Explain what you mean by the term "subsidize" when, in response to OCA Interrogatory Set I, No. 20, in reference to West Penn, you state that "the Company will not subsidize that portion of the EGS's charges that exceed the Price to Compare that would have been billed by the Company."
7. Do you agree that if the Opt-in Auction as proposed in your Plan is adopted, none of the customers participating in the auction would have EGS charges that exceed the Price to Compare during the term of the auction? If you disagree, please explain.
8. Explain how a customer who participates in the Opt-in Auction as proposed by the Companies would have his or her:
 - a. LIHEAP Cash Grant applied to his or her account?
 - b. LIHEAP Crisis Grant applied to his or her account?
9. Explain how a customer who participates in the Customer Referral Program as proposed by the Companies would have his or her:
 - a. LIHEAP Cash Grant applied to his or her account?
 - b. LIHEAP Crisis Grant applied to his or her account?
10. Currently, when responding to a "high bill complaint" do the Companies analyze whether the customer is eligible for CAP or any other Universal Service program such as LIURP and/or assistance through hardship funds, and if so, do the Companies make a referral to those programs at the time of the call? If so, explain this process. If not, explain why not. If policies differ by company, please explain difference.
11. What is the definition of a "high bill complaint"?
12. Reference Response to OCA Set I, No. 23: Do the companies make any distinction between the terms: "high bill inquiry", "high bill dispute" or "high bill complaint"? If so, please describe the distinction, if any, by company? If there is a distinction, please describe the relevance of the distinction for the residential customer?

13. Reference Response to OCA Set I, No 20: Are West Penn CAP customers notified of the risk of their having to bear the cost of exceeding the PTC charges if they shop? If so how are they so informed?
14. If the answer to Interrogatory No. 9, above, is "yes" would this analysis and referral to CAP and other Universal Service programs occur *before* any referral to an EGS as a part of the proposed Customer Referral Program?
15. In your response to OSBA Interrogatory Set I, No. 11c, you stated that "developing the retail competitive market for residential customers provides benefits to all customers of the respective class whether such customers participate in the programs or not." Explain what benefits inure to those customers who choose to remain on default service.
16. In your response to OSBA Interrogatory Set I, No. 11c, you stated that "developing the retail competitive market for residential customers provides benefits to all customers of the respective class whether such customers participate in the programs or not." Explain what benefits inure to those customers who participate in CAP?
17. Please provide copies of all studies demonstrating that the "headroom" provided by the MAC will lower prices for residential consumers.
18. In responding to this interrogatory, Reference Statement No. 7, Fullem p. 12 lines 1 – 7. Please explain the structure and application of the Maryland default rate referenced in testimony.
19. In responding to this interrogatory, Reference Statement No. 7, Fullem p. 14 line 7 which lists the amount of the surcharge charged to residential consumers in Maryland is stated to be 2 mills per kWh. What is the amount of the total default rate charged?
20. Please provide copies of all studies demonstrating the impacts of the Maryland surcharge on market prices.
21. In responding to this interrogatory, Reference Statement No. 7, Fullem p. 12, line 7-9. Is the rate referenced for the Public Utility Commission of Texas the rate of the Provider of Last Resort (POLR)? If not what rate is being referred to? If so, please:
 - a. explain the structure and application of the POLR;
 - b. provide references and copies of rules and regulations under which the POLR operates;
 - c. provide the number of customers taking electric service under the POLR rate in Texas; and,
 - d. provide copies of all studies demonstrating the impacts of the POLR mark-up on market prices.

22. In responding to this interrogatory, Reference Statement No. 7, Fullem p. 27, line 11.
What is the timing and content of required notices referenced? Please provide a sample
of all notices used by each of the Companies.

Respectfully submitted,

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Counsel for CAUSE-PA



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**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

Certificate of Service

I hereby certify that I have this day served copies of the foregoing document, upon the following parties as set forth below in accordance with the requirements of 52 Pa. Code § 1.54:

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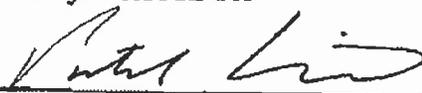
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APPENDIX B:

**RESPONSE OF METROPOLITAN EDISON COMPANY, PENNSYLVANIA ELECTRIC COMPANY,
PENNSYLVANIA POWER COMPANY AND WEST PENN POWER COMPANY TO THE
INTERROGATORY (SET 1), NO. 20 OF THE OFFICE OF CONSUMER ADVOCATE**

**JOINT PETITION OF METROPOLITAN EDISON COMPANY
PENNSYLVANIA ELECTRIC COMPANY, PENNSYLVANIA POWER
COMPANY, WEST PENN POWER COMPANY APPROVAL OF DEFAULT
SERVICE PROGRAMS**

OFFICE OF CONSUMER ADVOCATE Set I, No. 20

“Describe the eligibility for each EDC’s CAP customers to migrate to a competitive supplier and retain their CAP status and benefits. In your response, provide a description of how a CAP customer’s benefit is calculated when being served by an EGS.”

RESPONSE:

Met-Ed, Penelec and Penn Power

CAP customers will not be precluded from retail shopping.

Subsidy credits are equal to the difference between a defined percentage of total gross income, (which varies by primary heat source) and the most recent 12 months of EDC bills (energy burden) at the time of calculation. There is no difference in the calculation of the benefit for customers being served by an EGS. However, the energy burden is based on total EDC bills, so a CAP customer that switched to an EGS utilizing dual billing would see a substantial decrease in their benefit during the next recertification.

West Penn (as proposed in the Three-Year Plan pending at Docket # P-2011-2276855)

Participants in West Penn’s Low Income Payment and Usage Reduction Program (“LIPURP”) will be allowed to shop with alternate suppliers. A LIPURP customer pays a fixed amount per month, which will not decrease in the event the customer selects an alternative EGS. However, the Company will not subsidize that portion of the EGS’s charges that exceed the Price to Compare charges that would have been billed by the Company. For example, if the EGS generation charges are billed at \$36.25 and the Company’s generation charges would have been \$35.50, the customer will be responsible for the difference of \$0.75. If the customer’s monthly LIPURP bill is normally \$25.00, the customer will receive a bill for \$25.75.