

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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IRWINA. POPOWSKY  
Consumer Advocate

February 15, 2012

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 Answer to Retail Energy Supply Association's Motion to Modify Procedural Schedule, 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 "Aron J. Beatty".

Aron J. Beatty  
Assistant Consumer Advocate  
PA Attorney I.D. # 86625

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

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OFFICE OF CONSUMER ADVOCATE'S  
ANSWER TO RETAIL ENERGY SUPPLY ASSOCIATION'S  
MOTION TO MODIFY PROCEDURAL SCHEDULE

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On February 7, 2012, the Retail Energy Supply Association (RESA) filed a Motion with Administrative Law Judge Elizabeth Barnes requesting that the procedural schedule set forth in the December 22, 2011 Scheduling Order be modified. RESA requested that the ALJ stay the filing of direct testimony with respect to “competitive enhancements” due to the anticipated release of a Commission Order in the pending Retail Markets Investigation at Docket No. I-2011-2237952. Motion at 1. While making this request, RESA further stated that the parties should continue to file direct testimony on February 17<sup>th</sup> in accordance with the procedural schedule, but that parties be permitted to “supplement their position” to the extent necessary to reflect the anticipated final Order at a later date. Motion at 2. RESA does not offer an alternative schedule with its Motion and does not discuss how this impacts the end of the current schedule. The Office of Consumer Advocate does not support the RESA motion to the extent RESA is requesting a stay of the February 17<sup>th</sup> direct testimony due date with respect to “competitive enhancements,” which would bifurcate or separate the testimony issues. The OCA

submits that the issue of competitive enhancements and their impact on the default service procurement plan are interconnected and cannot be separated as suggested by RESA.

RESA's Motion anticipates that on or about March 1, 2012, the Commission will enter an Order in the Retail Markets Investigation. Motion at 1. As part of its Retail Markets Investigation, the Commission and stakeholders have been working to develop plans and programs that would encourage and facilitate retail shopping. As part of that proceeding, the Commission issued a Tentative Order on December 16, 2011 in which it addressed a number of competitive enhancements. The Commission requested and received numerous Comments and Reply Comments concerning the competitive enhancements identified in its Tentative Order. The OCA submits that the Comments and Reply Comments presented in that docket provide a wide and varied set of positions and interests. At this time, it is not clear when an Order addressing those Comments and Reply Comments will be entered. It is equally uncertain as to what direction the Commission will take given the nature of the Comments and Reply Comments that were submitted.

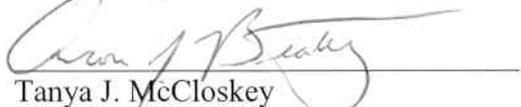
Given the uncertainty, the OCA submits that it is premature to suspend the current schedule. There are a number of procurement issues that are interrelated with the competitive enhancements identified by RESA in its Motion. For example, to the extent any competitive enhancements approved in this proceeding reduce the amount of supply needed for default service customers, the FirstEnergy Companies may need to reduce and/or alter their energy purchasing plan. The Companies have included competitive enhancement programs in their pending default service filing that are coordinated with their proposed purchasing plan.

The OCA submits that it is possible that there may be the need to supplement testimony depending on when a Commission Order is entered, and what that Order states. It is, however, premature to make wholesale changes to the schedule at this time.

It is not unprecedented to adapt to changes in the law or Commission requirements during the pendency of a default service proceeding. For example, in the autumn of 2008, PPL Electric Utilities filed default service plans with the Commission. On October 15, 2008, Governor Rendell signed Act 129 of 2008 into law, significantly changing the legal framework under which each default service provider was required to provide default service. To address the statutory changes that impacted their filings, adjustments were made to the existing procedural schedule after passage of Act 129. See, [Petition of PPL Utilities Corporation For Approval Of A Default Service Program and Procurement For The Period January 1, 2011 Through May 31, 2014](#), Docket No. P-2008-2060309 (Opinion and Order entered June 30, 2009 at 2). Clearly, the Companies and parties in this proceeding will be able to adjust as needed in response to any future recommendations that may be included in a Final Order in the Retail Markets Investigation.

For the reasons detailed above, the OCA does not support RESA's Motion to modify the procedural schedule at this time.

Respectfully submitted,



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153042

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 Answer to Retail Energy Supply Association's Motion to Modify Procedural Schedule, 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 15th day of February 2012.

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