**PENNSYLVANIA**

**PUBLIC UTILITY COMMISSION**

**Harrisburg, PA 17105-3265**

Public Meeting held March 1, 2012

Commissioners Present:

Robert F. Powelson, Chairman, Statement

John F. Coleman, Jr., Vice Chairman

Wayne E. Gardner

James H. Cawley

Pamela A. Witmer

Investigation of Pennsylvania’s I-2011-2237952

Retail Electricity Market:

Intermediate Work Plan

**FINAL ORDER**

**BY THE COMMISSION:**

By this Order, the Pennsylvania Public Utility Commission (Commission) issues a final intermediate work plan, which establishes various recommendations and proposals that are designed to improve competition in the retail electricity market. The work plan is based on a set of recommendations that the Commission received from its Office of Competitive Market Oversight (OCMO), which was provided pursuant to the Commission’s pending Investigation of Pennsylvania’s Retail Electricity Market (Investigation or RMI). OCMO’s recommendations were based on input from stakeholders participating in the Investigation.

On December 16, 2011, the Commission entered a Tentative Order that issued the intermediate work plan for public comment. The Commission has carefully considered the comments and reply comments that were filed, and, in this Order, adopts the intermediate work plan. The Commission directs that the proposals included herein be implemented prior to the expiration of the electric distribution companies’ (EDCs) next round of default service (DS) plans, unless otherwise indicated in this Order.

**DISCUSSION**

**History of the Proceeding**

In its order entered April 29, 2011, the Commission initiated an investigation into Pennsylvania’s retail electricity market. *Investigation of Pennsylvania’s Retail Electricity Market*, Docket No. I-2011-2237952 (order entered April 29, 2011)(April 29 Order).[[1]](#footnote-2) The April 29 Order tasked OCMO, with the input of stakeholders, to study how to best address and resolve issues identified by the Commission as being most relevant to improving the current retail electricity market.

Initial stakeholder input was solicited via specific questions included in the April 29 Order. Thirty-nine parties filed comments[[2]](#footnote-3) in response to the questions, which are available on the Commission’s website.[[3]](#footnote-4) Additionally, these topics and comments were further discussed at the June 8, 2011 *en banc* hearing, where representatives of consumer interests, EDCs, electric generation suppliers (EGSs), subject matter experts, and regulators were invited to testify.

After review of both the written comments and the comments conveyed during the *en banc* hearing, the Commission issued an Order initiating the second phase of its Investigation. *Investigation of Pennsylvania’s Retail Electricity Market*, No. I-2011-2237952 (order entered July 28, 2011)(July 28 Order). In the July 28 Order, the Commission concluded that:

Pennsylvania’s current retail market requires changes in order to bring about the robust competitive market envisioned by the General Assembly when it passed the Electricity Generation Customer Choice and Competition Act, 66 Pa. C.S.

§§ 2801, *et seq*., in 1996.

July 28 Order at 7.

Consequently, the Commission directed OCMO to hold technical conferences to address intermediate and long-term issues pertaining to the competitive market. The Commission also directed OCMO to present specific proposals for changes to the existing retail electricity market and default service model.

OCMO held technical conferences on the following dates: August 10, August 31, September 14, September 21, September 28, October 6, October 27, November 8, November 17, and December 2, 2011. Interested stakeholders participated in these conferences and provided OCMO with information relevant to the topics that were addressed on each date.[[4]](#footnote-5)

On November 10, 2011, the Commission held an *en banc* hearing where representatives of EDCs, EGSs and consumer interests discussed intermediate issues that may be implemented to enhance the competitive market on a shorter-term basis. The topics that were presented included the following: consumer education, accelerated switching timeframes, customer referral programs, retail opt-in auction programs and default service plans beyond May 2013. Ten parties[[5]](#footnote-6) filed informal comments following the *en banc* hearing.

On December 16, 2011, the Commission entered a Tentative Order that issued for public comment the intermediate work plan, which identified issues, tasks and goals that may be resolved and implemented prior to the expiration of the EDCs’ next round of default service plans, in an effort to improve the retail electricity market. *Investigation of Pennsylvania’s Retail Electricity Market: Intermediate Work Plan*, Docket No. I-2011-2237952 (order entered December 16, 2011)(December 16 Order). The December 16 Order provided recommendations regarding consumer education, accelerated customer switching timeframes, customer referral programs, retail opt-in auction programs, placement of the default service Price to Compare (PTC) on customer bills and mechanisms for increased EDC and EGS coordination. Two programs, the Retail Opt-in Auction and Standard Offer Customer Referral Programs, were specifically proposed for inclusion in the EDCs’ upcoming default service plans.

The Commission noted that the recommendations in the December 16 Order are designed to strike a balance between the needs of all interested parties and stakeholders participating in the Investigation.

At the same time that the Commission adopted the December 16 Order, Commissioner James H. Cawley issued a statement requesting comments that provide further information on EDC charges to EGSs for various coordination services, which may act as a potential barrier to competition. Commissioner Cawley also asked the parties to address the various inconsistencies in supplier tariffs related to the cost for access to historical customer and usage data, whether monthly or hourly.

The following parties filed comments to the December 16 Order: AARP, the Pennsylvania Utility Law Project and Community Legal Services, Inc. (AARP/PULP/CLS); Citizen Power, Inc. (Citizen Power); Citizens’ Electric Company of Lewisburg, PA, and Wellsboro Electric Company (Citizens’ and Wellsboro); Constellation NewEnergy, Inc. and Constellation Energy Commodities Group, Inc. (Constellation); Direct Energy Services LLC (Direct Energy); Dominion Retail, Inc. (Dominion);Duquesne; Exelon ; the FirstEnergy Companies (Met Ed Co., Penelec, Penn Power and West Penn); FirstEnergy Solutions Corporation (FES); the Industrial Customer Groups (IECPA), Duquesne Industrial Intervenors, Met-Ed Industrial Users Group, Penelec Industrial Customer Alliance, Penn Power Users Group, Philadelphia Area Industrial Energy Users Group, PP&L Industrial Customers Alliance and West Penn Power Industrial Intervenors); National Energy Marketers Association (NEM);OCA; PECO; PEMC; Pike County Light and Power Company (PCL&P); PPL; RESA; Spark Energy, L.P. (Spark Energy); UGI Energy Services, Inc. (UGIES); UGI Utilities, Inc. – Electric Division (UGI); Wal-Mart Stores East, LP and Sam’s East, Inc. (Walmart); and Washington Gas Energy Services, Inc. (WGES).

The following parties filed reply comments to the December 16 Order: AARP/PULP/CLS; Citizens’ and Wellsboro; Direct Energy; Dominion; Duquesne; the FirstEnergy Companies; FES; Industrial Consumer Groups; OCA; PECO; Pennsylvania Coalition Against Domestic Violence (PCADV); PEMC; and RESA.

**FINAL INTERMEDIATE WORK PLAN**

**Introduction**

In the July 28 Order, the Commission directed OCMO to identify intermediate steps involving changes to the existing market model and to present an intermediate work plan in December of 2011.[[6]](#footnote-7) This Final Order represents the final intermediate work plan as adopted by the Commission.

This intermediate work plan provides guidance regarding the following topics: (1) the expansion of consumer education; (2) the acceleration of the switching timeframe when a customer shops for an alternative supplier; (3) the initiation of a customer referral program; (4) the initiation of a retail opt-in auction program; (5) the inclusion of the default service PTC on customer bills; and (6) the increase in coordination between EDCs and EGSs.

As these issues have been discussed at length in a number of technical conferences, and formal comments and reply comments have been submitted and reviewed by staff, the Commission believes the guidance in this work plan strikes a balance between the needs of all parties and can be accomplished in the timeframes proposed. To the extent that an EDC chooses to deviate from these guidelines, we expect the differences to be justified by good cause shown, which includes showing operational constraints, or supported by evidence produced during an EDC’s default service proceeding and supported substantially by interested parties in the default service proceeding.

1. **Consumer Education**

In the December 16 Order, we proposed an enhanced consumer education effort to increase consumers’ knowledge of the retail electricity market in order to improve their willingness to explore competitive options. Throughout the Investigation, the participants, including representatives from EDCs, EGSs and consumer groups, consistently have expressed support for enhanced consumer education, including a greater emphasis on educating Pennsylvania’s small businesses on the benefits of shopping for their electric generation. December 16 Order at 5-7.

Specifically, in the December 16 Order, we proposed three coordinated consumer education mailings to residential and small business electric customers. The three mailings are as follows: a Commission-endorsed postcard, a PAPowerSwitch.com tri-fold flyer and a letter from the EDC that encourages electric shopping.

OCMO initiated the first step of the consumer education effort by Secretarial Letter dated December 15, 2011,[[7]](#footnote-8) which directed certain EDCs to produce and mail a Commission-endorsed postcard encouraging consumers to shop for a competitive supplier and highlighting the Commission’s website for electric shopping, [www.PAPowerSwitch.com](http://www.PAPowerSwitch.com) (PAPowerSwitch.com). Consistent with our directive in the Secretarial Letter, the postcard, which includes the signatures of all five Commissioners, has been produced and mailed to all residential and small business customers in the following EDC service territories: Duquesne; MetEd; PECO; Penelec; Penn Power; PPL; Pike County Light and Power Company; and West Penn Power Company.

Along with the postcard, OCMO has worked with RMI participants in creating two additional consumer education documents that are proposed to be mailed over the next twelve months by the same EDCs mentioned above.

With respect to the second consumer education mailing, OCMO and RMI participants have created a PAPowerSwitch.com tri-fold flyer and anticipate that it will be mailed in May of 2012. The tri-fold flyer places a strong emphasis on PAPowerSwitch.com and provides consumers with a detailed walk-through of the steps involved when shopping for a competitive EGS. It also highlights the savings that can be achieved by consumers when shopping for generation supply.

The Commission has further proposed that the EDCs undertake a third mailing in October of 2012. This mailing is anticipated to consist of a letter from the EDC that will encourage consumers to shop for a competitive supplier, direct customers to PAPowerSwitch.com and reinforce the notion that all consumers, regardless of who supplies their electricity, will continue to receive safe and reliable electric service from their EDC. The letter will also include a list of Frequently Asked Questions (FAQs).

In addition to these consumer education mailings, the Commission proposed to enhance the shopping experience for small business customers, in particular those with a peak demand of 25 kilowatts (kW) or less. This plan includes a concerted effort to work with the Office of Small Business Advocate (OSBA) and other business-related organizations in spearheading outreach to thousands of small business owners across the Commonwealth. OSBA has provided OCMO with organizational contact information that will be the basis for this outreach. December 6 Order at 6-7.

In the December 16 Order, we also explained that the small business outreach plan also includes steps to enhance the shopping experience on PAPowerSwitch.com for small business owners. Currently, small business owners receive a list of competitive suppliers that are currently providing offers in their service territories. With the input of OSBA and other participants of the Investigation, we are pursuing a process whereby small business owners, up to the usage threshold of 25 kW, will be able to obtain comparative pricing data along with other terms and conditions from various suppliers in their service territories via PAPowerSwitch.com. We have worked with our Office of Communications (Communications) to explore this option and anticipate that it can be completed in early 2012 in the price range of $25,000 to $30,000, an expenditure that will require the Commission’s approval. December 16 Order at 7.

**Comments**

Several EDCs commented on the order and timing of the proposed mailings. Duquesne suggests re-arranging the order of the last two consumer education mailings so that the EDC letter and FAQs would go out in May 2012, while the tri-fold flyer would be mailed in either late 2012 or early 2013, to create “breathing room” from the postcard mailing. Additionally, both PECO and the FirstEnergy Companies joined Duquesne in requesting flexibility or latitude regarding the mailing timeframes to better coordinate with other mailings, in order to ensure that the message is “more cohesive and efficient” and not “overwhelming” to customers.

In its comments, PPL supported the proposed timeframes and requested exact dates from the Commission when the mailings should be undertaken. PPL also suggested that editorial control should remain with the EDC for any mailings that bear the EDC’s letterhead or that are signed by an officer or employee of the EDC.

Some parties, including Duquesne and OCA, suggest that the Commission evaluate the results after the postcard is mailed before directing that the tri-fold flyer and EDC letter be produced and mailed. Meanwhile, OCA joined AARP/PULP/CLS and PEMC in cautioning against creating unreasonable expectations for customers when it comes to savings from electric generation shopping.

With respect to small business education, RMI participants widely support enhancing consumer education for small business customers. PPL, FirstEnergy Solutions, Constellation, NEM, and WGES all submitted comments specifically supporting small business outreach. Only one commenter, UGIES, believed that the current market does a sufficient job educating small business customers.

**Resolution**

Pursuant to this Order, the Commission will proceed with the two additional mailings in 2012 to residential and small business customers of the specified EDCs, as well as with the development and implementation of specific initiatives outlined in this Order designed to enhance the electric shopping experience for small business customers.

In directing these initiatives, the Commission acknowledges that both the tri-fold flyer, which will be mailed in May 2012, and the EDC letter and FAQs, which will be mailed in October 2012, are to occur only once, as compared to the Commission-endorsed postcard, which is being re-established on an annual basis.

Note that these mailings should be completed using a process similar to the one established for the postcard mailing. Communications will supply to the EDCs any required layouts as a digital file, i.e., the tri-fold PAPowerSwitch.com flyer and FAQ, as well as printing specifications. Upon receipt of the digital file, EDCs will be responsible for having the materials produced and mailed as expeditiously as possible, using current customer mailing lists to label and mail the materials to all residential and smallest general service rate class customers. EDCs shall notify OCMO via email at [ra-OCMO@pa.gov](mailto:ra-OCMO@pa.gov) when the mailing is initiated and upon its completion.

The Commission continues to support the notion that the specified EDCs are entitled to cost recovery in future filings.[[8]](#footnote-9) As with the Commission-endorsed postcard, the Commission will leave to the discretion of the EDCs the course of cost recovery they wish to pursue in complying with this Order. The Commission recommends that the EDC use any remaining funds in the EDC’s current Consumer Education Plan before using future collections.

As for editorial control associated with the EDC letter and FAQs in October, the Commission recognizes that the mailing falls under the auspices of the individual EDC and understands that it may be beneficial to both the EDC and its customers if some degree of editorial control is left with the EDC. However, the Commission also has a desire to maintain consistency in the message among the EDCs and, therefore, directs OCMO to circulate a standard letter, which would form a template for all EDCs to use, and which was developed with input from all stakeholders. EDCs proposing to deviate from this template for good cause should submit a redlined version to the Commission staff for review and approval.

Furthermore, the Commission will reserve the right to monitor and evaluate the effectiveness of each mailing. However, at this time, the Commission does not feel it is in the best interests of Pennsylvania consumers to deviate from the schedule as previously proposed in the Tentative Order and included in this Order. Therefore, the Commission directs that the Commission tri-fold flyer should be mailed in May 2012, and the EDC letter and FAQ in October 2012.

As for the timing of these two mailings, if an EDC feels that it has a compelling reason to deviate from the proposed schedule, the EDC should notify the Commission through OCMO and its request will be reviewed. EDCs shall notify OCMO via email at [ra-OCMO@pa.gov](mailto:ra-OCMO@pa.gov).

The Commission notes that, as part of the final phase of the Investigation, OCMO has appointed a consumer education subgroup -- comprised of Commission staff, industry and consumer representatives -- to develop a comprehensive statewide consumer education campaign. The campaign will be finalized in the spring of 2012, as part of the long-range work plan to improve the Commonwealth’s competitive electricity market.

Lastly, the Commission directs that the small business initiative should be pursued and fully implemented, as detailed above.

1. **Acceleration of Supplier Switching Timeframes**

In the Tentative Order, the Commission referenced proposed Interim Guidelines that were issued on November 14, 2011, to accelerate the timeframe for switching a customer to an EGS. *See Interim Guidelines Regarding Standards for Changing a Customer’s Electricity Generation Supplier,* Docket No. M-2011-2270442 (order entered November 14, 2011). Comments were due on December 14, 2011.

Presently, a change in supplier takes from 16 to 45 days, which is the result of a variety of Commission regulations and EGS and EDC procedures that were established, in large part, to guard against “slamming” – the unauthorized change of a supplier. As the Commission has noted, the delay in transferring a customer’s account has been perceived by some consumers to be a lost “savings opportunity” that, in turn, results in customer frustration and disappointment.

The primary changes proposed by the Interim Guidelines include: (1) the elimination of the ten-day waiting period that is currently initiated when the EDC sends a letter to a customer to confirm a change in that customer’s supplier; and (2) the substitution of a standard, statewide account transfer letter for the current confirmation letter. The Interim Guidelines also sought comments on other possible mechanisms that may accelerate the switching process, such as the use of off-cycle meter readings to initiate supplier service, and in the longer-term, the use of smart-metering to facilitate near-instantaneous switching.

Extensive comments were filed on December 14, 2011, and are still undergoing review by the Commission. As a result, the Commission expects to adopt final Interim Guidelines in the near future and to initiate a rulemaking to review the switching regulations at 52 Pa. Code §§ 57.171-179 within six months of finalizing Interim Guidelines.

1. **Customer Referral Programs**

In the December 16 Order, we discussed two different types of customer referral programs. The first type of program was designated as the New/Moving Customer Referral Program. This program is meant to provide new customers and customers moving within an EDC’s service territory with information about the competitive market place at the time those customers contact the EDC about their future electric service. As discussed below, we also considered whether this type of program could be used for all customers who contacted their EDCs for any reason, other than emergencies, service quality issues and service terminations. The main thrust of this program is to ensure that customers do not assume that EDC-provided default service is their first (or only) option for generation supply. December 16 Order at 17-21.

The second type of customer referral program was the Standard Offer Customer Referral Program. This is designed to be a more robust customer referral program in which customers would be given the opportunity to voluntarily “opt-in” for a program in which several EGSs would participate and offer some form of generation product that would include a discount off of the current EDC PTC for a stated period of time. Our December 16 Order suggested a three-month term with a standard percentage discount from the EDC’s PTC. The product would be uniform throughout the EDC’s service territory. Upon entering the program, customers could either select a preferred EGS or be randomly assigned to a participating EGS. At the conclusion of the Standard Offer Customer Referral Program, absent an affirmative action by the customer to the contrary, the customer would remain with the EGS on a month-to-month basis with no early termination fees if the customer switches suppliers. December 16 Order at 20-21.

Most of the entities participating in the RMI filed comments on both types of customer referral programs. We will discuss each one separately.

1. **New/Moving Customer Referral Program**

As indicated above, this type of Customer Referral Program was proposed to present consumers with information about competitive alternatives every time they contact the EDC. In our December 16 Order, we noted that while “most commenters favored this type of program, there was a lack of agreement regarding the types of calls which would be appropriate for customer referral scripts, the call center logistics (*i.e.*, use of existing EDC call centers, outsourcing the function, or utilizing one statewide call center with EDC-specific information), cost recovery and the actual enrollment process if the customer decides to act at the time of the call.” December 16 Order at 17. We invited comments on each of these issues.

Subject to comments, we stated a preference that the New/Moving Customer Referral Program should be open to all default service customers, including residential and small business customers, who contact the EDC for any reason other than emergencies, terminations or quality of service issues. We also stated that in those instances when a customer is prepared to select a specific EGS at the time of the call, a “hot transfer”[[9]](#footnote-10) process should be implemented to enable the customer to be immediately transferred to that EGS for the initiation of service. We noted that EDCs would not be expected to provide specific information about EGS product offerings during the calls. The EDCs, however, would be expected to use scripts that directed customers to information, including the Commission’s PAPowerswitch.com website, which does contain specific product information. Importantly, we stated: “[a]s scripts are developed to implement this program, we would expect that the competitive market alternatives take a prominent place in the discussion so that default service is truly styled as last resort service, not the expected starting point for retail electric customers in Pennsylvania.” December 16 Order at 19.

**Comments**

Several parties request that the New/Moving Customer Referral Program be restricted only to customers seeking initiation of new service or customers moving within an EDC service territory. For example, Constellation, OCA and AARP/PULP/CLS all recommend restricting this referral program. Direct Energy, Exelon and PEMC recommend that the Commission forego consideration of the New/Moving Customer Referral Program and either advance the implementation of the Standard Offer Customer Referral Program to 2012 and/or combine the two programs. We are also cognizant of comments from the FirstEnergy Companies, AARP/PULP/CLS and PPL that express concerns about whether the expansion of the program to default service customers would make the program too complicated or too costly when the anticipated benefits are considered.

Several parties suggest that customers currently on Customer Assistance Programs (CAP) present many unique issues that will need to be addressed before we can consider whether they should be included in a New/Moving Customer referral program. For example, AARP/PULP/CLS strongly recommend that CAP customers be excluded from participation. They express the concern that there is a potential for CAP customers to be subjected to higher and/or more volatile rates if they switch from their current CAP programs to the competitive market. Similarly, PEMC acknowledges that the inclusion of CAP customers presents substantial issues involving benefits portability, education and similar concerns.

In the Commission’s December 16 Order, we defined small business customers for purposes of customer referral programs as “the smallest general service business rate class as set forth in the relevant EDC’s tariff.” December 16 Order at 18. The FirstEnergy Companies state that small business customers should be excluded because they have widely-varying business usage patterns, EDCs do not have rate schedules dedicated solely to small business customers and current shopping statistics reveal that small business customers are engaged in the retail market.

Several parties suggest that a “hot transfer” capability would not be advisable. For example, Direct Energy comments that most customers initiating new service will not have sufficient information to make an EGS selection at the time of the initial EDC contact. Similarly, PEMC comments that requirement of a “hot transfer” capability could be an administrative burden for the EDCs and delay implementation of the program. Dominion expresses the concern that a “hot transfer” capability appears to be inconsistent with the Commission’s statement that the EDC will not be charged with providing specific EGS offer information during the customer contact.

Other comments suggest that, if the customer is prepared to make a selection at the time of the call, some capability for immediate customer transfer should be available. The OCA suggests that an EDC transfer of the customer’s call could be appropriate if the customer knows the EGS he or she wants to use. The EDC customer service representative (CSR) would transfer the call and disconnect as soon as the transfer occurs, without participating in the EGS-customer conversation. NEM suggests that an immediate call transfer is an appropriate extension of our goals in implementing this type of program. Constellation also supports the concept of a “hot transfer,” provided that the customer is prepared to select a specific EGS and the EDC representative can provide the customer with an account number so the EGS can initiate the enrollment.

**Resolution**

Based on the comments received, notably the concerns revolving around complexity and cost, we have determined that the New/Moving Customer Referral Program will be restricted to those customers calling to initiate service or calling to move service within an EDC’s service territory. By restricting the program in this fashion, we will reduce or eliminate concerns relating to complexity, time for implementation and the potential impact on EDC call center performance. This also eliminates the need for consideration of a statewide call center for purposes of this program.

We agree that CAP customers present substantial issues that must be fully considered before we can determine whether they should be included in a New/Moving Customer Referral Program. OCMO recently convened[[10]](#footnote-11) a meeting of the Universal Service subgroup to begin the task of considering the needs and interests of low-income customers as we move to a more robust competitive market. We agree with OCA that the question of CAP customer participation should be considered as part of the RMI Universal Service working group.

Our determination that the New/Moving Customer Referral Program will be restricted to customers calling for new service or customers moving within an EDC’s service territory have mooted the issues of the types of calls which will trigger the program scripts, as well as the type of call center which should be used. Clearly, the EDC’s own call center should be capable of managing this program. Issues which remain are whether the program should include small business customers as well as residential customers, the “hot transfer” capability and cost recovery.

We do not find any of the foregoing arguments to exclude small business customers from the New/Moving Customer Referral Program to be persuasive. The primary objective of the program is to get information into the hands of the customer at the time they contact the EDC. We have provided a standard definition of “small business customer” for purposes of this program. The fact that small business customers may have widely-varying usage patterns does not impact our objective of getting market information to those customers when they initiate service or move within a service territory. Accordingly, we will include small business customers, as defined here, in the customers to be included in the New/Moving Customer Referral Program.

As we stated in our December 16 Order, we do not intend to place the EDCs in the position of providing information about various EGS product offerings to customers through their call centers. When a customer calls to initiate service or arrange a move within an EDC’s service territory, the EDC should be in a position to provide general information about Pennsylvania’s electric retail market and direct the customer to PAPowerswitch.com. However, if the customer knows which EGS he or she wants to select (particularly in the case of moving customers), then the EDC should have the capability to transfer the call after completing all the necessary tasks related to initiating distribution service for the customer. We agree with OCA that there is no need for the EDC representative to remain on the call once the transfer is completed. We also emphasize that it is the EGSs’ responsibility to ensure that EDCs have current contact information to initiate such transfers.

Cost recovery is a concern for various commenters. Because of our determination to limit this program to customers initiating service or moving within an EDC’s service territory, we expect the actual impact of this program on EDC call centers will be minimal. We have also tried to simplify the call transfer process so that only in those instances when a customer is prepared to select an EGS at the time of the call will any transfer take place. Further, we have adopted the OCA suggestion that the EDC representative need not remain on the call once the transfer has occurred. We do not perceive this program design to directly benefit the EGS community as the primary objective is to provide general shopping information to customers. We also do not expect this program to have a significant impact on EDC call center activities since the customers would already be calling to initiate service or transfer service to another location in the EDC’s service territory. Accordingly, to the extent that there are some incremental costs associated with this program, they should be recovered via the normal EDC call center cost recovery mechanism. In the event that EDCs do experience significant impacts due to this program, we will revisit this issue at that time.

Given our resolution of the various issues involved in the New/Moving Customer Referral Program, it is clear that EDCs will need to develop scripts for their call centers to use consistent with our determinations. We will direct OCMO, in conjunction with Communications, to establish a working group, comprised of EDCs and other interested parties, to expeditiously develop appropriate call center scripts. Given the nature of the program we have set out, we expect that the call center scripts can be completed by the end of the second quarter of 2012, and the programs can be implemented no later than the fourth quarter of 2012.

We further direct that when the next default service plans are implemented in June of 2013, we expect that the New/Moving Customer Referral Program will be merged or consolidated with the Standard Offer Customer Referral Program discussed below. In the interim, the New/Moving Customer Referral Program can be implemented on its own in a relatively short period of time with a minimum amount of effort.

1. **Standard Offer Customer Referral Program**

As described in the December 16 Order, the Standard Offer Customer Referral Program should be voluntary for customers, *i.e.*, “opt-in”, as well as for participating EGSs. We further recommended that the standard offer should be comprised of a percentage reduction from the effective EDC PTC and should be provided for a minimum of three months. The standard offer and its term should be uniform within an EDC’s service territory. Customers may be assigned to an EGS of their choice or may choose random assignment. The terms and conditions of the standard offer must be presented to customers before they decide to enter the program. The Standard Offer Customer Referral Program should be presented during customer contacts to the EDC call centers, other than calls for emergencies, terminations and the like. The eligible customer base for the Standard Offer Customer Referral Program was recommended to be residential customers on default service at the time of the contact. We anticipated that issues involving CAP customer participation will be addressed in the individual default service plan proceedings.

Once a customer enrolls in the Standard Offer Customer Referral Program, the enrollment will be forwarded to the EGS for Electronic Data Interchange (EDI) processing. At the time of the first contact between the EGS and the customer, the customer will be reminded of the terms and conditions of the standard offer, including the date by which the customer must take action to exercise his or her options at the end of the term. There will be no termination penalty or fee imposed at any time during the effective period of the standard offer. All existing customer notification requirements apply, including notices and the timing of those notices relating to proposed changes in the terms and conditions of the EGS-customer relationship. At the conclusion of the standard offer period, absent affirmative customer action to enter into a new contract with the EGS, the customer’s enrollment with a competitive EGS or the customer’s return to default service, it is expected that the customer would remain with the EGS on a month-to-month basis without the imposition of early termination fees. We emphasize that all requirements for notices relating to price and term changes would apply.

To the extent that an EDC chooses to deviate from these guidelines, we expect the differences to be justified by operational constraints, and supported by evidence produced during the default service plan proceedings.

**Comments**

PECO proposes that the Standard Offer Customer Referral Program be implemented statewide with a statewide call center. PECO declares that a statewide Standard Offer Customer Referral Program would be a natural extension to the successful PAPowerSwitch.com program and would help to prevent lengthening of call times and increased customer dissatisfaction. PECO indicates that in its Default Service Plan II (DSP II)[[11]](#footnote-12) it proposes a *supplier of the month program*. In this program, EGSs would submit binding, fixed-price bids for a 12-month service period, the winner being the EGS who submitted the lowest offer. The monthly offer must be lower than the effective DS PTC. A single supplier offer would be featured each month. PECO proposes that the program commence in August/September of 2013, with enrollment available telephonically or via the Internet. Customers would be presented with the lowest-price offer. PECO agrees with the Commission that residential customers should be eligible to participate in an EDC’s Standard Offer Customer Referral Program. However, PECO asserts that its CAP customers be excluded from programs. PECO is concerned that CAP customers would lose their eligibility to participate in CAP. PECO supports the Commission’s recommendation to include a Standard Offer Customer Referral Program as a part of an EDC’s next default service plan. PECO argues against RESA’s proposal to implement a Standard Offer Customer Referral Program absent a default service proceeding and RESA’s proposed accelerated timeframe. PECO contends that RESA’s proposal is not feasible and would disrupt active proceedings. PECO concurs with the Commission to currently exclude the small commercial customer class in a Standard Offer Customer Referral Program. PECO opines that programs involving these less homogenous customers would be more complex, as different “offers” would have to be designed, solicited and marketed to different subsets of this group of customers.

The FirstEnergy Companies assert that it is not necessary to differentiate the customer referral program models into separate New/Moving Customer Referral and Standard Offer Customer Referral programs. The FirstEnergy Companies contend that the customer referral program included in their proposed default service plans[[12]](#footnote-13) is better suited as an effective means to accommodate the Commission’s goal to facilitate customer participation in the competitive market while also balancing the primary role of the EDC. The FirstEnergy Companies maintain that the time necessary to market and explain the nuances of multiple offerings from the EGSs is best left to the EGSs themselves rather than requiring the EDC to market multiple offerings from EGSs. The FirstEnergy Companies opine that, to use an administratively-determined price promotes regulation rather than competition. The FirstEnergy Companies oppose the Commission’s recommendation that the standard offer introductory price should be provided for a minimum of three months, as this would erode customer trust. The FirstEnergy Companies state that several EGSs continue to tout the successful nature of a Standard Offer Customer Referral program, similar to the program used in New York, as a reason why the program should be implemented in Pennsylvania. The FirstEnergy Companies point out that according to PAPowerswitch.com, 25.7% of Pennsylvania’s residential customers, a number exceeding the same figure in New York, are shopping without any intervention from market enhancements. The FirstEnergy Companies note the need to protect customers from volatile prices stemming from unspecified variable monthly rates following such a short introductory period. The FirstEnergy Companies contend that customers, and the market, would better be served through a competitively-sourced fixed-date product that lasts for a longer term and that such a product would better represent true market conditions while mitigating “bait and switch” type offerings.

PPL generally concurs that a Standard Offer Customer Referral Program should be voluntary for both customers and EGSs; should be provided for a minimum of three months; be uniform across an EDC’s territory; should permit customers to elect service from a specific participating EGS or, in the alternative, be assigned by random process; should rely on existing EDI protocols and should involve no termination fee or penalty during the term of the offer. PPL requests clarification regarding the percentage reduction, specifically, whether that reduction is off of the DS PTC in effect at the time the offer is presented to the customer and remains constant through the length of the program term or if it is off of the DS PTC and fluctuates with the quarterly PTC changes. PPL concurs that, in calls from eligible customers, referrals be made under appropriate circumstances and only after the customer’s fundamental reason for calling has been addressed. However, in doing so to maintain call times, volumes and quality, significant investment will be required. PPL opines that it is appropriate for customers to receive some notice as the end of the term approaches and that, under the existing notice requirements, customers will receive such notice.

Duquesne generally agrees with most of the guidelines outlined in the Tentative Order. Duquesne believes that the Standard Offer Customer Referral Program should provide assurances that these are not temporary “bait and switch” offers that could result in high rates and customer dissatisfaction with retail choice. Duquesne proposes that the program guarantee savings to participating customers in the form of a percentage discount off the default service supply rate for a reasonable period of time. Duquesne also believes this period should exceed three months as permitted under the Commission’s recommendations, and currently envisions a referral program that offers customers guaranteed savings over a 12-month period. Duquesne expresses concern about potential customer confusion if a customer decides to participate in the New/Moving Customer Referral Program, the Standard Offer Customer Referral Program and the Retail Opt-in Auction. There may be a period of time that a customer is eligible for all three. Duquesne recommends that the three programs not be held at the same time to avoid confusion.

Citizens’ and Wellsboro opine that, unlike larger EDCs, they do not have extensive call centers to handle inquiries during business hours; rather these calls are handled by office staff, which in turn has other duties of customer service, payment processing, billing and other items. Citizens’ and Wellsboro request that the Standard Offer Customer Referral Program be limited to directing the customer to PAPowerSwitch.com. Citizens’ and Wellsboro do not agree that an EDC’s CSRs be expected to discuss with customers the types of products that may be available in its service territory. Citizens’ and Wellsboro aver that detailed explanations of the types of products that may be available to shopping customers is a role best filled by EGSs or a statewide call center focused on customer choice advice. Citizens’ and Wellsboro respectfully request to be excused from implementing the Standard Offer Customer Referral Program in their territories.

PCL&P states that it does not generically oppose the concept of an EGS Referral Program. PCL&P asserts that extending the PowerSwitch program, as well as the discount rate and the two-month discount period, would result in faster implementation at lower cost. Ultimately, PCL&P proposes, to the extent that all EDCs are required to adopt the Commission’s recommendation, that referrals result in switches during the second billing cycle or that all costs associated with modifying the EDC’s billing system be borne by the EGSs operating in its service territory and that those EGSs pay all of the costs associated with EDC CSR referral of a customer to an EGS.

OCA generally agrees with the Commission’s description and broad guidelines. OCA recommends that the minimum term for the standard offer period be no shorter than four months. OCA asserts that, unless a customer requests the information during a customer call to an EDC, an EDC not initiate customer choice discussions when a customer calls for the following reason: to report an outage or other emergency; to report a quality of service issue or high bill; to request information about, or enroll in, the EDC’s CAP or Energy Efficiency and Conservation Programs; to request a payment arrangement; or to make any formal or informal complaints. OCA and FES contend that, if a customer calls the EDC and requests to participate in the Standard Offer Customer Referral Program, such a customer should not be denied that opportunity, even if they are already shopping. OCA agrees with FES in that all terms and conditions to be provided during enrollment include what will happen at the end of the introductory period and how the price will be established. OCA concurs with both FES and Dominion regarding the use of a fixed-priced product for the remainder of the year following the introductory period. OCA, Duquesne AARP/PULP/CLS assert that, at the conclusion of the standard offer period, customers should revert back to default service unless affirmative customer action is taken. OCA states that some initial costs of the Standard Offer Customer Referral Program will be borne by ratepayers. However, OCA and UGIES agree that the bulk of the costs, including the costs of maintaining the referral programs once they are put into place, should be the responsibility of the participating EGSs. OCA agrees with PECO’s proposal to recover the costs of the programs through the discount on the Purchase of Receivables (POR) that is charged to EGSs serving customers, thereby ensuring a method that is proportional to the EGS’ customer shares.

AARP/PULP/CLS, along with PCADV, contend that low-income customers must be protected from unintentional loss of benefits. AARP/PULP/CLS, Direct Energy and PEMC generally agree that the Commission defer the enunciation of specific details concerning universal service until the RMI Universal Service subgroup has had an opportunity to review and make recommendations to the Commission, or arrive at a consensus concerning the many details of addressing the provision of universal service within default service.

RESA proposes an implementation time line for a Standard Offer Customer Referral Program that would have the EDCs implementing said plan between September and November of 2012. RESA and Direct Energy believe that a robust standard offer program can be implemented in 2012. RESA proposes the following program elements: a product modeled after the NY customer referral programs with an introductory rate of 7% off the PTC that would be valid for the first three months. Value-added products would only be considered after one year of experience with the program. All properly-licensed EGSs would be permitted to participate, with customers permitted to select an EGS by name or through random referral. Customer class eligibility would include all residential and small commercial and industrial (C&I) customers on default service, i.e., non-shopping. RESA, Direct Energy and PEMC suggest that customers would automatically renew onto a month-to-month contact with the EGS without risk of early termination fees, and that EGS would be responsible for handling the enrollment and providing the terms and conditions to the customer. RESA recommends, with support of the OCA, a direct mailer program similar to the one implemented by Met-Ed and Penelec. RESA avers that permitting or actively soliciting shopping customers to participate in a retail market program, whether it is a customer referral program or a retail opt-in auction program, is not consistent with the purpose of these programs, which is to encourage default customers to shop. RESA points out that OCA states that fairness requires that, if a customer calls the EDC and requests to be enrolled in the Standard Offer Customer Referral Program, such a customer should not be denied. RESA tempers OCA’s stance by urging great care be taken to ensure that the Standard Offer Customer Referral Program is only targeted to those customers remaining on default service supplied by the EDC. RESA further opines that an EDC’s CSR can use identifying account information to easily differentiate a shopping from a non-shopping customer. RESA, along with Constellation, Direct Energy and PEMC, avers that, upon completion of the referral program, a customer is not to be automatically returned to default service. RESA also contends that customers are not being forced to participate and, instead, are opting in. Thus, automatically returning customers to default service at the end of the program would be “forcing” them back to default service.

Direct Energy generally finds the Standard Offer Customer Referral Program acceptable. Direct Energy recommends that the Commission direct each EDC to file tariffs within 30 days of the entry of the PUC Final Order setting forth a Standard Offer Customer Referral Program implementation plan and, subsequent to Commission approval, each EDC should be ordered to place the Standard Offer Customer Referral Program into effect no later than the last quarter of 2012. Direct Energy agrees with RESA that the Standard Offer Customer Referral Program should be applicable to both residential and small business customers, specifically those of which who are default service customers. Direct Energy contends that customer referral program and Retail Opt-in Auction costs should be recovered from all ratepayers through EDC charges. Direct Energy states that customers taking advantage of shopping opportunities through the referral programs are likely to save far more than the nominal costs paid by EDC ratepayers. Direct Energy is in favor of utilizing existing EDC call centers to handle referral programs initially; however, it does not disagree with PECO and Duquesne that implementation of a statewide call center would be an appropriate long-term solution. Direct Energy rejects the FirstEnergy Companies’ recommendation to allow the EDCs to design their own referral programs to fit within the parameters of their DS plans. Direct Energy, in turn, proposes a uniform statewide program and contends that it will keep costs down for all parties involved. Direct Energy supports a three-month Standard Offer Customer Referral Program as an appropriate length to incentivize customers to try shopping, however Direct Energy would also support a four-month program length. Direct Energy, along with RESA and PEMC, agrees to a 7% guaranteed savings for the Standard Offer Customer Referral Program.

PEMC generally endorses the concept of a Standard Offer Customer Referral Program. PEMC maintains that CSRs should be instructed to not offer any opinions or suggestions to customers regarding the value of one EGS over another. PEMC disagrees with PECO’s auction proposal stating that it would be administratively-burdensome and could result in a single supplier-dominated territory, ultimately leading to higher prices. PEMC opines that the introductory rate is not a “bait-and-switch” tactic. Moreover, if the introductory rate and time period are communicated to the customer in an upfront and transparent manner, are uniform across EGSs within a particular EDC territory, and provided to the consumer by a well-trained and neutral EDC CSR, there should be minimal confusion about the limits of the program.

Dominion affirms that the Commission’s current process of requiring two notices to the consumer if the price term is to be changed at the expiration of the initial offer is adequate and that additional affirmative consent should not be required from the consumer unless the supplier proposes to change terms other than the price or duration of the contract. Additionally, Dominion proposes that one of the two notices be sent in the welcome packet to consumers when they initially enroll in the referral program, and the second notice could follow in a timeframe so as to provide ample time for the consumer to research other offers available in the market place and be prepared to make a decision prior to the expiration of the initial term. Dominion avers that providing consumers with only a variable price option at the end of the standard offer could prove to be counterproductive since the variable price could exceed the default service rate. Concurrently, Dominion proposes that variable-priced products offered at the end of the initial term of a Standard Offer Customer Referral Program not exceed the EDC DS PTC for the first year following the initial term. Additionally, Dominion advocates for a one-year, fixed-price option at the conclusion of the initial period and a guaranteed percent-off discount type offering.

NEM continues to support the incorporation of a Standard Offer Customer Referral Program as a component of the upcoming utility default service plan filings. NEM believes that the “bait and switch” concerns are misplaced. NEM further opines that consumers understand and utilize introductory rate offers with respect to many types of products.

FES proposes that the initial referral term be a minimum of 12 months, at a fixed price that is at, or below the EDC’s DS PTC, with no termination or cancellation fees and the customer being referred to the lowest available price supplier. FES opines that customers should be made aware of the post-introductory offer terms at the time of initial enrollment into the introductory price offer. FES urges the Commission to reconsider its adoption of the program component under which customers who take no affirmative action will remain with their assigned EGS on a month to month basis; this concern is in line with the OCA, Duquesne, and AARP/PULP/CLS. FES disagrees with PEMC’s position that the percent off should be consistent across all markets in the state.

Constellation and Walmart are supportive of the Standard Offer Customer Referral Program as described in the December 16 Order.

WGES is supportive of the Standard Offer Customer Referral Program and prefers it over the New/Moving Customer Referral Program. WGES is in agreement with RESA that the small C&I customers be eligible to participate in the Standard Offer Customer Referral Program.

UGIES disfavors the Standard Offer Customer Referral Program on the basis that it potentially creates new market barriers through administrative design that could negatively impact Pennsylvania’s electric retail market. However, despite UGIES’ general disfavor of the referral program, it does aver that the program should be applicable to residential customers only and not to small C&I customers. UGIES is concerned that many of the details of this program require further discussion and consideration before such a program is implemented. UGIES opines that the “random assignment” should be structured and implemented in such a way to ensure fair treatment of all participating suppliers. UGIES proposes to require all referral calls, upon customer’s consent, be subject to third-party verification. UGIES proposes that customers should only be eligible to participate in the standard offer program once as the intent of the program is to introduce customers to shopping, not to provide them with a method for obtaining on-going percent-off discounts.

**Resolution**

The Commission provided several broad guidelines for the Standard Offer Customer Referral Program in its December 16 Order. The parties, absent UGIES, are generally favorable of a Standard Offer Customer Referral Program. The Commission has examined and considered the comments from each party and now directs that a Standard Offer Customer Referral Program proposal shall be included in EDC Default Service Plans. As stated in the December 16 Order, it is expected that detailed implementation and logistical elements will be determined during the default service plan proceedings for each EDC.

Accordingly, to provide direction to each EDC who has not yet filed its default service plan, to EDCs with proposed plans pending Commission review and to other interested parties, we set forth the following guidelines for the Standard Offer Customer Referral Program:

* The Standard Offer Customer Referral Program should be voluntary for customers, i.e.,“opt-in”, as well as for participating EGSs.
* The standard offer will target/market residential default service customers; however, residential shopping customers will not be excluded if they specifically request to participate. At this time, CAP customers should be excluded from the Standard Offer Customer Referral Program and have deferred the details of addressing the provision of universal service within default service to the RMI’s Universal Service subgroup.
* The standard offer should be comprised of a 7% reduction from the EDC’s effective DS PTC. The 7% reduction is a constant price established against the PTC effective on the date the standard offer is made.
* The standard offer should be provided for a minimum of four months, but should not exceed 1 year. The standard offer and its term should be uniform within an EDC’s service territory.
* Customers may choose to be assigned to an EGS of their choice or may choose a random assignment. The process by which an EGS is assigned either randomly or by customer choice, at the customer’s discretion, will be specifically detailed in each EDC’s plan proposal to ensure fairness and impartiality.
* The terms and conditions of the standard offer must be presented to customers before they decide to enter the program.
* The Standard Offer Customer Referral Program should be presented during customer contacts to the EDC call centers, other than calls for emergencies, terminations and the like. We would, however, permit that a customer be presented the standard offer during customer contacts to the EDC call center for high bill issues, only and explicitly after the customer’s concerns were satisfied.
* Once a customer enrolls in the Standard Offer Customer Referral Program, the enrollment will be forwarded to the EGS for EDI processing.
* At the time of the first contact between the EGS and the customer, the customer will be reminded of the terms and conditions of the standard offer, including the date by which the customer must take action to exercise his or her options at the end of the term.
* There will be no termination penalty or fee imposed at any time during the effective period of the standard offer.
* All existing customer notification requirements apply, including notices and the timing of those notices relating to proposed changes in the terms and conditions of the EGS-customer relationship.
* At the conclusion of the standard offer period, absent affirmative customer action to enter into a new contract with the EGS, the customer’s enrollment with a different EGS or the customer’s return to default service, the customer will remain with the EGS on a month-to-month basis, and shall not be subject to any termination penalty or fee. However, this should not deter an EGS from offering longer, fixed-term prices.

As to program costs, we agree with the assertions of OCA and UGIES that the bulk of the costs, including the costs of maintaining the referral programs once they are put into place, should be the responsibility of the participating EGSs. We also find that PECO’s proposal to recover program costs through the discount on the POR appears to be acceptable. Furthermore, we encourage the other EDCs to explore similar recovery in their own DS plan proceedings.

At this time, there will be no statewide call center. EDCs will utilize and augment their existing call centers, infrastructure and resources to accommodate the Standard Offer Customer Referral Program.

We grant Citizens’ and Wellsboro’s exclusion from implementing the Standard Offer Customer Referral program as outlined in this Order. Given the reasons set forth in their comments, we find their request for exemption acceptable. In addition, we strongly encourage the Companies to adopt as many of the guidelines presented in this Order to the extent their operational constraints will allow.

Given the overall size of PCL&P, and the fact that its parent Orange and Rockland Utilities, Inc. has developed and initiated a customer referral program, PowerSwitch, that is very similar to the one being presented in this Order, the Commission grants PCL&P’s request to extend its parent’s PowerSwitch program to PCL&P’s service territory.

1. **Retail Opt-in Auction Programs**

In a Retail Opt-in Auction, an EGS or EGSs bid to provide competitive retail service to a group of default service customers within a specific EDC’s service territory. These customers have affirmatively chosen to have their accounts included in the group, *i.e.*, "opt-in." As a result, Retail Opt-in Auctions pose a possible safe and easy mechanism to increase customer participation in the competitive market, and to decrease EGS customer acquisition costs. To explore the possibility of Retail Opt-in Auctions as an intermediate mechanism to boost shopping, a subgroup was developed within the RMI, consisting of EGS, EDC and consumer advocacy representatives actively participating, while other interested stakeholders monitored its activities. The subgroup submitted an initial report on September 30, 2011, to the entire RMI stakeholder group that was followed by a final report on November 30, 2011. This was also a topic at the November 17, 2011 technical conference and was the sole agenda item at the December 2, 2011 technical conference. Additionally, this was a topic at the November 10, 2011 *en banc* hearing, where one EDC, three EGSs, and four consumer advocacy representatives presented their perspectives directly to the Commission. In addition to the above-noted activities, the Default Service Plans Order sought comment on a variety of default service issues, including the inclusion of opt-in auctions in future EDC default service plans. *Default Service Plans Order*, Docket No. I-2011-2237952 (order entered December 16, 2011) at 6.

Upon careful review and consideration of these efforts, the Commission, in the December 16 Order, sought additional comment on the specific details and mechanics involved in setting up and implementing Retail Opt-in Auctions. The Commission divided this topic into 11 sub-topics, and offered specific proposals upon which we invited parties to comment. In addition to the 11 sub-topics, the Commission invited comment on any areas that may have been overlooked. December 16 Order at 22-23.

**Comments**

In addition to the sub-topics put forth by the Commission in the December 16 Order, several parties offered general comments on the appropriateness and effectiveness of Retail Opt-in Auctions. PECO supports the Retail Opt-in Auctions and has proposed such a program in its DSP II filing. Likewise, the FirstEnergy Companies included a proposed program in their recent Default Service Filing. However, the FirstEnergy Companies caution the Commission that it would be inappropriate to prejudge these programs in the context of the instant proceeding, because they believe that the default service cases are the proper forum for making a determination on the merits of Retail Opt-in Auctions.

Several EGSs expressed support for the Retail Opt-in Auction concept, including Spark Energy, who urges the Commission to strike the appropriate balance between encouraging customer choice through the Retail Opt-in Auctions and inadvertently discouraging customer choice through features which motivate customers to abandon shopping and consequently diminish supplier interest. NEM believes the Retail Opt-in Auctions represent another means for consumers to exercise their ability to shop and move away from default service and may be an effective way of overcoming consumer inertia. WGES agrees that the Retail Opt-in Auctions could be an effective way of overcoming inertia, but urges that, while EDCs should have some flexibility in designing their auctions, clear guidance on major program features must be provided by the Commission. PEMC believes that properly-designed Retail Opt-in Auctions would help the further development of the retail market in Pennsylvania, while recognizing that such programs are just an interim step on the way to a fully competitive market. Direct Energy agrees that the Retail Opt-in Auctions could serve as an important transition mechanism to longer-term default reforms. Direct Energy notes that initiating Retail Opt-in Auctions will not come without a cost, but believes that, if structured properly, the benefits to competition will outweigh the costs.

OCA opines that the Retail Opt-in Auctions, appropriately-structured, could provide a positive impetus for shopping while not harming default service and “that certain elements should be included in any program of this type to ensure that the costs, benefits and risks of such a program are properly aligned in order to provide the best opportunity of success for all stakeholders.” OCA Comments at 15. Walmart believes that Retail Opt-in Auctions could be very effective in increasing customer participation and encourages the Commission to establish guidelines that would not undermine current consumer shopping while encouraging the largest possible participation by both customers and suppliers.

Constellation expresses concern that the Retail Opt-in Auctions would have an adverse impact on existing and/or future DS plan procurements as such auction pools would “cannibalize” the wholesale procurements for EDC default supply. Because of this potential risk, Constellation predicts that default service prices would rise. Exelon states that implementing Retail Opt-in Auctions at the same time as other market-enhancing programs may lead to customer confusion and recommends implementing and assessing the success of the other programs first. AARP/PULP/CLS also advise the Commission not to implement the Retail Opt-in Auctions and customer referral programs at the same time as to avoid confusing consumers. AARP/PULP/CLS also expresses concern with the cost of the Retail Opt-in Auctions and the payment of such costs. They believe that implementing programs without regard to current shopping levels and without regard to costs that may be incurred by shopping and non-shopping customers would be unreasonable. UGIES advises against administrative methods to pick winners and losers in the market, and would prefer to see the market do that itself. UGIES believes that Retail Opt-in Auctions may simply result in the same status-quo bias that is currently seen in EDC-provided default service and may lead consumers to believe that the decision to switch to an EGS is only safe when handled as part of an EDC-administered program. UGIES further believes that standard product offerings run the risk of making consumers focus on price competition alone.

**Resolution**

We agree with OCA NEMA, WGES, PEMC, Direct Energy, Walmart and others who believe that properly-structured Retail Opt-in Auctions may provide benefits to customers and enhance the competitive retail environment. We believe the FirstEnergy Companies’ concerns with the Commission “prejudging” the Retail Opt-in Auctions in this proceeding while utility default service proceedings are pending are overstated. While the details of each individual utility’s Retail Opt-in Auction may be addressed in the individual default proceedings, there is no reason why the Commission cannot provide broader policy guidance in this instant proceeding. This broader policy guidance will serve to inform all parties of our overall expectations as each individual utility proposal is reviewed. It is understood that we will have to be flexible when needed as to accommodate any unique situations confronted during the review and approval of individual utility default service plans; most obviously with those details that may not be included in this instant order.

1. **Customer Eligibility**

In our Tentative Order, the Commission solicited comments regarding the eligibility requirements for a customer to participate in the Retail Opt-in Auctions. We recommended that the auctions be limited to residential customers. While the Commission recommended that marketing, notifications and consumer education efforts for the Retail Opt-in Auctions be targeted at non-shopping, residential, default service customers, we also recommended that those currently-shopping, residential customers be considered eligible to prevent the return of shopping customers to default service in order to participate. This would prevent any appearance of discrimination,[[13]](#footnote-14) a concern presented by residential consumer representatives, and the possibility of putting the EDCs in the precarious role of denying customer participation, a concern presented by the EDCs. December 16 Order at 23.

The Commission also recommended that small C&I customers not be included in the Retail Opt-in Auctions due to a lack of a standard “small commercial” definition across the state. Although the Commission’s Customer Information Regulations provide a definition of “small business customer,”[[14]](#footnote-15) this standard rarely, if ever, aligns with EDC commercial rate classifications. Additionally, most, if not all, small C&I customers are also residential customers at their homes and would have the opportunity to participate in the Retail Opt-in Auctions as residential customers. The Commission believed this would provide such customers a shopping experience that may encourage them to also shop for the generation supply for their businesses. In making such a recommendation, we requested that those parties who believed that small C&I customers should be eligible provide a proposed statewide definition for “small commercial” and provide an explanation as to how an EDC would identify such customers. December 16 Order at 24.

Lastly, the Commission requested comments on the inclusion or exclusion of customers in CAP or customers in exotic rate classes, such as net metering, time of use, etc., in the Retail Opt-in Auctions. Specifically, comments were requested as to how such customers could be included and how to convey information to them. Because CAP customer shopping rules and procedures vary from EDC to EDC, it would be assumed that participation in the auctions for such customers would vary as well. December 16 Order at 24.

**Comments**

Constellation, Dominion, Duquesne, Exelon, the FirstEnergy Companies, OCA, PECO, PPL, and UGIES agree with the Commission’s proposal to target marketing, notifications and consumer education efforts for the Retail Opt-in Auctions at non-shopping, residential, default service customers, but allow residential, shopping customers to participate. FES also agrees that all residential customers should be eligible to participate, but does not address the idea of focused marketing efforts. The FirstEnergy Companies note that none of the parties who request that the Retail Opt-in Auctions exclude shopping customers recognize those customers who have shopped, fulfilled the terms of their contracts and, as such, are not at risk for early termination fees. They state that the exclusion of such customers would effectively punish them for remaining in the market and would be unfair and inconsistent with the goals of the Commission.

Direct Energy, NEM, PEMC, RESA, Walmart and WGES disagree with the Commission’s proposal to include shopping customers. RESA states that the purpose of the Retail Opt-in Auctions is to introduce default service customers to the competitive market. Customers who are already shopping are already experiencing the purpose of the auctions and, therefore, should be excluded. Additionally, RESA states that EGSs have already invested considerable resources in acquiring such customers and could face a negative return on their investment if those customers participate. Lastly, RESA states that some shopping customers may risk the incurrence of a termination fee/penalty if they cancel existing contracts early in order to participate. NEM, PEMC and Walmart emphasize that, if shopping customers are included, that only default service customers should be actively targeted.

With regard to the inclusion of small C&I customers in the Retail Opt-in Auctions, Constellation, Dominion, Duquesne, the FirstEnergy Companies, OCA, PECO and PPL agree with the Commission’s proposal to exclude such customers. Duquesne states that the inclusion of small C&I customers would require separate bidding for service to such classes. Dominion states that the inclusion of small C&I customers in an auction could be considered in the future, if the residential Retail Opt-in Auctions prove to be successful.

UGIES agrees with the Commission’s proposal to exclude small C&I customers, as well. However, UGIES states that, if the Commission should opt otherwise and include such customers, the appropriate definition of “small commercial” customer would be the Commission’s definition of “small business customer” at 52 Pa. Code §54.2, as it has long been recognized by the Commission.

Direct Energy, FES, PEMC and WGES all disagree with the Commission’s proposal and request the inclusion of small C&I customers in the Retail Opt-in Auctions. Direct Energy states that shopping numbers for small C&I customers are similar to residential and, therefore, display a reluctance to shop in the small C&I sector. Direct Energy also states that it should not be a burdensome task for EDCs to identify small C&I customers with a load of 25kW or less and that some utilities, including PPL, provided shopping statistics including such data. Lastly, Direct Energy avers that exclusion of small C&I customers could make the Retail Opt-in Auctions less attractive, leading to diminished EGS participation.

Duquesne, the FirstEnergy Companies, FES and PPL all believe that CAP customers should be considered eligible to participate in the Retail Opt-in Auctions. FES avers that, to the extent shopping is currently restricted, CAP be amended to allow for shopping and inclusion in the auctions.

AARP/PULP/CLS, Constellation, OCA, PCADV and PEMC all promote a “no harm” standard. OCA submits that, in order to include CAP customers in the Retail Opt-in Auctions, each EDC will need to determine whether, under its CAP, harm could result to CAP customers participating in the auction process or to remaining customers who fund the CAP discounts. If any scenario would result in such harm, OCA submits that such customers should not be included. OCA states that the Universal Service subgroup of the RMI should be directed to address CAP shopping issues. PCADV agrees that low-income customers must be protected from an unintentional loss of benefits, should they be included. Constellation and PEMC state that, should CAP customers be included, they not risk losing their CAP benefits.

PECO is the only party to definitively state that CAP customers should be excluded from the Retail Opt-in Auctions, but does not elaborate. It should be noted that PECO’s CAP customers are currently ineligible for shopping.

Regarding the inclusion of customers in exotic rate classes, such as net metering and time of use, only the FirstEnergy Companies, OCA and PPL provided feedback. The FirstEnergy Companies state that all residential customers, including net metering, time of use, etc., should be considered eligible and have been included in its proposed default service plan filing.

OCA states that many exotic rate classes are being phased out and likely will be aligned with regular residential default service rates at the time the Retail Opt-in Auctions occur. As such, OCA states that such customers should be considered eligible. OCA states that time of use customers should not be excluded, but are not likely to participate as the Retail Opt-in Auctions’ price offers will not be attractive. Additionally, OCA avers that net metering customers should not be excluded, but requests that such customers be provided with very clear information regarding their net metering compensation before participating.

PPL avers that, because it already allows shopping for time of use, net metering, customers, etc., it does not see an issue with allowing their participation in the Retail Opt-in Auctions. Like OCA, PPL states that additional education must be provided to net metering customers regarding their net metering compensation before participating.

**Resolution**

While the Commission agrees with those parties who state that the intent of a Retail Opt-in Auction is to encourage shopping by those customers who, for whatever reason, have shown an aversion to shopping, it disagrees with the parties who believe customers that are currently shopping should be deemed ineligible for such auctions. The Commission maintains its original position that Retail Opt-in Auctions should be open to both residential default service and residential shopping customers. The Commission agrees with those parties that expressed discomfort in the possibility of EDCs rejecting shopping customer participation. The Commission believes that would cast a shadow over the auctions and appear to be discriminatory against those who have already entered into the retail electric market. Additionally, the Commission believes this will prevent shopping customers from returning to default service in order to participate, which may result in cancelled contracts and the imposition of early termination fees/penalties.

However, to ensure the focus of this competitive enhancement is on those customers who have not shopped, the Commission will also maintain its original position that all marketing, notifications and consumer education efforts for Retail Opt-in Auctions should be targeted to non-shopping, residential, default service customers. As such, although a shopping customer may become aware of the Retail Opt-in Auction and request participation, the auction materials themselves will be directed toward the non-shopping segment of the residential sector.

The Commission recognizes the lack of shopping in the small C&I segment and, as such, requested comments on the inclusion of these customers in the Retail Opt-in Auctions. Parties were almost equally split between including and excluding small C&I customers. While the Commission agrees that shopping can be improved in this segment, it maintains its original proposal that small C&I customers should not be eligible to participate. Because there is no consistency across the EDCs in defining “small commercial,” the Commission believes it would be inappropriate to include a segment of customers that may reflect a wide variation in electric load. The definitions vary across EDCs and, as such, do not produce comparable groups of customers when reviewing shopping offers and statistics.

While the Commission has, at this time, decided that Retail Opt-in Auctions will be a one-time event, it will take under advisement Dominion’s recommendation that, following the residential auctions, the Commission review the success and determine whether a similar program would be suitable for the small C&I sector. Additionally, within this Intermediate Work Plan, as well as in future proceedings at this docket, the Commission will seek to initiate other methodologies to increase shopping in the small C&I sector to ensure those customers are reaping the benefits of a competitive electric market.

The Commission recognizes the input provided thus far regarding the inclusion of CAP customers in the Retail Opt-in Auctions and has reviewed and discussed all information provided by the parties at great length. Because CAP customer participation in electric competition currently varies from EDC to EDC, the Commission finds it difficult to make a statewide pronouncement regarding these customers’ inclusion or exclusion in the auctions at this time. The Commission notes that a Universal Service subgroup has been formed under the auspices of the Investigation and it is expected that those subgroup participants will discuss the issues surrounding CAP customer shopping at length and provide recommendations for future RMI initiatives, such as the long-term work plan anticipated to be released in the spring of 2012. However, the Commission believes it cannot make a determination, at this time, regarding the eligibility of such customers to participate in the Retail Opt-in Auctions. As such, the Commission believes the ability of CAP customer participation should be determined within each EDC’s default service proceeding, through which the EDCs are presenting proposed Retail Opt-in Auction models. We also note that we do see significant merit and agree with the comments provided by AARP/PULP/CLS, Constellation, OCA, PCADV and PEMC that CAP customers should not be subject to harm, i.e., loss of benefits, if they are deemed eligible to participate in the auctions.

In addition, the Commission agrees with those parties who stated that residential customers in exotic rate classes, such as time of use and net metering, should be eligible to participate in the Retail Opt-in Auctions. Additionally, we agree with the OCA and PPL that net metering customers should be provided with additional information regarding their net metering benefits before opting into the auctions. As such, we direct that marketing materials for the Retail Opt-in Auctions contain language addressing this issue.

1. **EGS and EDC Participation**

In its Tentative Order, the Commission proposed that EGS participation in the Retail Opt-in Auctions be voluntary, with all appropriately-licensed EGSs eligible to participate. Additionally, the Commission proposed that the three smallest EDCs (Citizens’; Wellsboro; and PCL&P) be excluded from the auctions. December 16 Order at 27.

**Comments**

Constellation, Duquesne, the FirstEnergy Companies, FES, OCA, PEMC, PPL and WGES all agreed with the Commission’s proposal to allow voluntary, licensed EGS participation and the exclusion of the three smallest EDCs.

RESA did not oppose the Commission’s proposal; however it did note that the Opt-in Auctions could present a good opportunity to generate EGS interest in entering the smaller markets.

UGI requested exemption, as a small EDC, from the Retail Opt-in Auction requirement as there are currently little or no EGS offerings in its territory. OCA agreed with UGI’s requested exemption.

**Resolution**

Upon review of the parties’ comments, the Commission will maintain its recommended course of action to allow the Retail Opt-in Auctions to be voluntary, to be open to all appropriately-licensed EGSs and to exempt Citizens’ and Wellsboro and PCL&P from participating in these programs. In addition, the Commission will grant UGI’s request for exemption from the Retail Opt-in Auction requirement. The Commission notes, however, that upon review of the Retail Opt-in Auctions as well as other competitive enhancements, UGI, PCL&P, and Citizens’ and Wellsboro may be required to implement such programs in the future.

1. **Pilot Programs**

In the December 16 Order, we proposed excluding pilot programs from the Retail Opt-in Auctions. We questioned the usefulness of pilot programs, given the short timeframe that these programs would have to be assembled and launched and whether this could be accomplished in time for a 2012 pilot, especially since the time to litigate this matter within the default service proceedings is unknown. We also questioned whether the pilots would be in operation for a sufficient period of time in order to be used as a valuable learning tool prior to the implementation of the full-scale Retail Opt-in Auctions. Further, we noted that pilot programs may interfere with current default supply contracts and, as such, may be inappropriate. December 16 Order at 28.

**Comments**

Consistent with stakeholder discussions that took place during the technical conferences, EDCs oppose the idea of a pilot Retail Opt-in Auction in their comments. In addition, OCA and several EGSs – Dominion, FES and WGES – believe that a pilot will not be practical. These parties generally assert that there is little time to develop a pilot program and little benefit will be obtained from a pilot between the time that it would be implemented and June 2013. Duquesne asserts that it will be difficult, if not impossible, to use the pilot results as a basis to construct the full-scale Retail Opt-in Auctions, since the full-scale program will have to be included in the EDCs’ next default service filings. The FirstEnergy Companies are concerned that the pilot will be an expenditure of significant resources and money without the benefit of meaningful “lessons learned.”

The EDCs also believe that current default service contracts may be affected by a pilot program. The FirstEnergy Companies assert that a pilot may produce noticeable and substantial effects on shopping and, therefore, can impact existing default service contracts.

On the other hand, three parties, RESA, Direct Energy and PEMC, advocated for the use of pilot Retail Opt-in Auctions. Direct Energy believes that a pilot program could be beneficial and could provide information on the bidding process, enrollment rules and consumer education. Direct Energy asserts that a pilot would provide information about customer interest and would help EGSs understand the value of the full-scale Retail Opt-in Auctions. Direct Energy maintains that it is possible to conduct at least one pilot at the end of 2012 and have the data available with sufficient lead time prior to the start of the full-scale auctions. For default service plans that have already been litigated, Direct Energy suggests that the record be reopened or a comment proceeding be held so that the Commission can adjust the Retail Opt-in Auctions to reflect the lessons learned from the pilot.

RESA avers that a pilot can be targeted to one or more EDC service territories with low customer migration. Likewise, Direct Energy recommends that a pilot auction should be limited to the FirstEnergy companies’ service territories. PEMC also believes that a pilot with limited participation can be organized for the fourth quarter of 2012 and should take place where residential migration levels are the lowest.

Direct Energy disagrees that a pilot will tamper with current default service contracts and states that the effect of switching on full requirements or block contracts is not a legitimate concern. Direct Energy asserts that the majority of wholesale supply contracts are “full requirements” contracts, in which the supplier agrees to bear the risk of shopping. Further, Direct Energy states no EDCs use block contracts to serve more than 51% of the residential load and there is no chance that a pilot would cause shopping that would result in more than 50% of the default service load to switch.

**Resolution**

The Commission maintains its position that pilot programs should not be implemented for Retail Opt-in Auctions. Constructing a pilot for a 2012 implementation date is burdensome given the condensed timeframe in which it will have to be developed. Further, the value of a pilot program is likely minimal as the results of the pilot would be realized either after, or in close proximity to, the next default service plan filings, which will include proposed full-scale Retail Opt-in Auctions.

Several parties recommend that the pilot be limited to the FirstEnergy Companies’ service territories as these territories generally experience low customer migration. However, we note that during technical conferences, the FirstEnergy Companies pointed out that residential shopping has grown from a low of 10.3% (Met-Ed) to a high of 22.3% (Penn Power) over the last nine months. A steady progression of shopping has occurred since the expiration of rate caps and, therefore, we do not believe that a “rushed” pilot program is warranted to incite shopping in the FirstEnergy Companies’ service territories prior to the full-scale Retail Opt-in Auctions.

Further, we do not want to risk tampering with current default supply contracts. The landscape in which the current default service contracts were procured did not anticipate a pilot auction. For these reasons, we maintain our previously stated position that there will not be pilot programs for the Retail Opt-in Auctions.

1. **Program Length/Term**

In the December 16 Order, the Commission recommended that the length of the Retail Opt-in Auctions be no shorter than six months and no longer than 12 months. We expressed concern that a two-year program may increase risk premiums that suppliers may have to incorporate into prices and, as a result, may discourage some suppliers from participating. Further, we believed that a two-year term may complicate price and savings messages to customers. December 16 Order at 29.

We also stated in the December 16 Order that customers should be able to exit the program at any time, but, upon exiting, should not be permitted to return to the program after being placed on default service. December 16 Order at 29.

**Comments**

The parties reached near unanimous agreement with the Commission’s proposal that the length of the Retail Opt-in Auctions be six to twelve months. However, within that timeframe, several parties, including Duquesne, OCA, Citizen Power, Dominion and Constellation prefer a twelve-month term. Supporters of a twelve-month program believe that it will guarantee savings for a meaningful period of time and will align with wholesale supply contracts, which generally can be one year. Citizen Power expresses concern that a program that is shorter than twelve months may encourage EGSs to presume that, after the term expires, they can raise rates to above-market prices and capture a premium from customers who are slow to switch.

Conversely, FES asserts that the program length should be longer - no less than twelve months and up to twenty-four months. FES states that it is its experience that customers prefer longer-term contracts that guarantee savings.

Similarly, the FirstEnergy Companies recommend that the program last twenty-four months. They state that a two-year program synchronizes with the two-year default service plans, especially if the Retail Opt-in Auctions include a product that guarantees a percentage off the PTC. In addition, the FirstEnergy Companies aver that there is only speculation that a two-year contract term can shrink the bidding pool and lead to higher prices. They note that EGSs are currently offering fixed-price contracts for terms of twelve months or more. As such, they suggest that EDCs define the program length in their default service plans, where a full evidentiary record can be developed.

With respect to the treatment of customers who choose to leave the program, nearly all parties agreed with the Commission’s proposal that customers should be able to exit the program at any time without the imposition of cancellation fees, and that customers should not be permitted back into the program after returning to default service.

However, Exelon suggests that the Commission consider imposing exit fees on those customers who leave before their contracts expire. Exelon notes that incentive payments for customers to stay with a supplier for a period of time generally increase the electricity price of the auction product, whereas exit fees reduce that price. Exelon believes that exit fees will also reduce the default service price because exit fees mitigate switching risk for wholesale suppliers.

WGES submits that customers participating in the auction should have to stay with the EGS for a minimum of six months.

**Resolution**

After considering the comments that were filed on this topic, we recommend that customers receive supply service under the terms of the Retail Opt-in Auctions for a period of six billing cycles. We believe that a term of six billing cycles is not as risky as a longer term, since shorter-term Retail Opt-in Auctions may help protect against the unpredictability of the market and may lessen risk premiums that suppliers incorporate into their prices. Further, a shorter-term auction may entice more suppliers to participate in the program.

A term of six billing cycles also minimizes the amount of time that customers will participate in the Retail Opt-in Auction, thus allowing customers to switch back to default service or shop for another EGS if they are dissatisfied with the price of their generation service. As described in greater detail in the section below related to the composition of the customer offer, we recommend that EGSs use a fixed price product over a price that is guaranteed to be less than the default service rate, since the utility’s default service rate is not fully reflective of the market. While customers will achieve savings at the time of the auction, the fixed price product will not necessarily be lower than the utility’s default service rate throughout the entire duration of the program. Therefore, we recommend that length of service under the Retail Opt-in Auction last six billing cycles.

In addition, we maintain our position that customers should be able to exit the program at any time, but should not be permitted to reenter the program after returning to default service or switching to an alternative EGS.

We also clarify that customers who choose to leave the program should not pay termination or cancellation fees. The purpose of the Retail Opt-in Auctions is to ease customers who have not yet shopped for electricity into shopping and an exit fee is likely to deter customer participation. However, an early departure from the program could cause the forfeiture of any incentive or bonus payment depending on when the customer exits. Specifics about the bonus payment and early program departure are discussed in greater detail in the section below regarding the composition of the customer offer.

1. **Timing**

In the December 16 Order, the Commission recommended that the Retail Opt-in Auction service commence on or after June 1, 2013, as we recognized the need to consider special circumstances that may provide the need for a later start date. The Commission also recommended that the enrollment period, or the opt-in period, should occur as closely as possible to the service start date and that the enrollment period should be no longer than a month. December 16 Order at 31-32.

The Commission further submitted that it preferred to recommend a sequence that would hold the auctions before customer enrollments. However, the Commission acknowledged the possibility of holding enrollments before the auction. As such, we solicited comments on the need for potential customers to have sufficient pricing information versus the need of interested EGS to have some idea of the size the auction pool. December 16 Order at 32.

**Comments**

OCA, Duquesne, PPL, the FirstEnergy Companies and Dominion concur with the Commission’s recommendation to have the start of service for Retail Opt-in Auction customers occur on or after June 2013. OCA submits that this helps to avoid the disturbance of existing default service plan contracts and plans. Constellation submits that the Commission should allow individual EDCs to have separate start dates for the Retail Opt-in Auctions in order to accommodate variations in the expiration of supply contracts that extend beyond June 1, 2013, for some EDCs.

OCA, Duquesne, the FirstEnergy Companies, FES and Exelon agree with the Commission’s proposal to hold the auctions first and, therefore, have the EGS retail offers established before enrolling customers. The FirstEnergy Companies believe that customers should not be required to shop without knowing the price and term of the product offering available. Exelon contends that holding the customer enrollments before the auctions, even with a guaranteed discount off the EDC’s DS PTC will likely confuse customers. Exelon submits that it is more appropriate for participating EGSs to bear most of the risk for the program, not customers. NEM submits that, if the sequence proposed by the Commission is used, safeguards should be put in place in case there is an extreme fluctuation in wholesale pricing.

FES recommends a specific sequence of events in order to best foster success for the Retail Opt-in Auctions. First, FES submits that pre-bidder EGS qualifications for the auctions should occur so that the auctions can be held immediately after the wholesale auctions. Second, FES states that wholesale auctions should occur so that the PTC is known. Third, FES states that the Retail Opt-in Auctions should occur. FES states that the Retail Opt-in Auctions should occur immediately after the wholesale auction. Last, the opt-in enrollment should begin. Exelon echoes FES’s proposal to have the default service auction before the Retail Opt-in Auctions.

RESA, Direct Energy, Constellation, WGES and Dominion contend that customers should opt-in before the auction is held. RESA avers that timing the auction before customer enrollment may discourage EGSs from participating by significantly increasing uncertainty and risk for the EGS. Further, RESA submits that the risk of significant market changes could impact the variables that EGSs have to consider in determining their price if the timing is spaced far apart for the auction and enrollment. Direct Energy avers that the Commission’s proposed structure, mixed with no pilot program, will create uncertainty that will tend to make EGSs more conservative in a price-only bid. Dominion avers that requesting suppliers to bid without some idea of the customer participation levels will cause significant upward pressure on the prices that can be offered.

Citizen Power communicates its concern that the Retail Opt-in Auctions may place an increased risk premium in wholesalers’ default service bids if the wholesalers do not know the number of participants in the auctions. As such, Citizen Power states that, if possible, default service auctions should take place after the auction enrollment. However, Citizen Power acknowledges that this timing sequence may be problematic. Therefore, as an alternative, Citizen Power proposes that the Commission direct EDCs to contemplate procuring 100% of their load for the period between June 2013 and August 2013 in its initial auction. Subsequent default service auctions for time periods after August 2013 could continue to be staggered in the usual manner. Citizen Power states that this proposal would be advantageous since it places all of the risk pertaining to the unknown number of opt-in participants on the June 2013 to August 2013 period where the risk pertaining to unknown future energy prices is lowest.

OCA, Duquesne, PPL and NEM support a limited timeframe for customer enrollment. Duquesne avers that a limited time period will allow customers sufficient time to enroll while limiting the wholesale pricing exposure of EGSs holding offers open.

FES agrees with the Commission that enrollment should be completed as close as possible to the actual initiation of service to ensure that customers see the result of their decision as soon as possible. FES does request that it be made clear that the enrollment period include the time to allow for mailings, assignment of customers to EGSs, and the complete EGS enrollment process.

The FirstEnergy Companies intend to mail customers the product details, after the winning EGS participants and product specifics are determined, via a bill insert or separate mailing. They seek clarification that the 30-day customer enrollment window begins on the date indicated in these mailings, and not on the date that the winning EGS offers are determined. Further, the FirstEnergy Companies state that a uniform service start date cannot be achieved given customer meter read cycles.

Spark Energy suggests that the enrollment period start immediately upon successful closure of the auction and that some mechanisms be put in place to shield EGSs from unanticipated wholesale market price changes during the enrollment period. Spark Energy elaborates on a recommended mechanism to satisfy its concerns. Specifically, Spark Energy recommends the implementation of a market fluctuation trigger that would allow participating EGSs to reduce their tranche size from the standard size to another predetermined size. For example, if the wholesale market is 5% above the trigger level on the day of the auction for 33% of the enrollment period, EGSs would have the opportunity to reduce their tranche caps.

**Resolution**

First, as to the issue covering the recommended start of service, the parties generally agree that service for the Retail Opt-in Auction product offering should start on, or after June 1, 2013. Consequently, the Commission will maintain its position to have the Retail Opt-in Auction service commence on, or after June 1, 2013. As to Constellation’s recommendation to permit EDCs the flexibility to have separate service start dates, the Commission is amenable to such flexibility and will judge the reasonableness of each EDC’s proposed start date on a company-specific basis. In particular, the Commission wants to ensure that the timing of the Retail Opt-in Auction and Standard Offer Customer Referral Program will not create customer confusion. Some parties have recommended that the two programs not begin simultaneously and start some time apart, for example, two months. Accordingly, exact start dates for these programs will be determined in each EDC’s default service plan proceeding.

A more contentious topic concerns the timing of the EGS auction relative to the customer enrollment or opt-in period. The Commission’s December 16 Order proposed to hold the EGS auction before the customer enrollment period. Numerous parties agree, including OCA, Duquesne, the FirstEnergy Companies, FES and Exelon. However, a number of parties, namely RESA, Direct Energy, Constellation, WGES and Dominion disagree with this proposal. These parties contend that such a sequence will place unnecessary uncertainty and risk on the EGSs.

Upon review of each of the party’s comments, the Commission will retain its initial decision to hold the EGS auction before the customer enrollment. We are cognizant of the concerns raised by some EGSs about uncertainty that may be manifested from this sequence; however, we believe that the proposal to hold enrollments before the product specifications are known will create customer confusion. One of the underlying goals of the Retail Opt-in Auctions is to assist uncertain customers in their shopping endeavors. As such, mitigating customer confusion is important to the Commission. The Commission is also concerned about a worst-case scenario in which the EGS auction does not fully subscribe all available tranches. Such a scenario could foster a negative perception toward the competitive retail markets if customers who expected auction service were not able to receive service or had to receive a different price and/or product.

Further, the Commission has concerns with NEM and Spark Energy’s recommendation to include some safeguards to shield EGSs from large fluctuations in the wholesale markets. On its face, it appears such a mechanism will create the possibility that enrolled customers are dropped if tranches become unsubscribed or the possibility that previously established prices are changed based on newly allocated tranches. Consequently, we will only state that if any such mechanism is incorporated in a program, we recommend it be designed in a fashion that will not adversely affect customer participation or product pricing.

Concerning Citizen Power’s recommendation to purchase 100% of default service load for the quarter starting June 1, 2013, before the auction processes commence, the Commission will not adopt such a specific recommendation in this proceeding. Again, such a proposal would be best made within each EDC’s specific default service proceeding.

A number of parties agree with the Commission proposal to limit the timeframe for enrollment, including OCA, Duquesne, PPL and NEM. Consequently, the Commission will maintain its guidance that enrollment periods last no longer than a month.

Spark Energy seeks Commission direction to have the enrollment period commence immediately after the conclusion of the auction. Given the Commission’s awareness of EDC operational challenges to meet such an abbreviated timeline, we will simply recommend that the enrollment period commence as close as practicably possible to the conclusion of the auction itself.

Lastly, FES requests that it be made clear that the enrollment period include the time to allow for mailings, assignment of customers to EGSs and the complete EGS enrollment process. The Commission believes such a request is reasonable, but will not grant an exclusive endorsement of such specific requests within this proceeding. As such, we will simply maintain our original guidance that participating customers begin service as soon as possible to the conclusion of the auction.

1. **Customer Participation Caps**

In the December 16 Order, the Commission proposed a participation cap of 50% of an EDC’s default service customer base for the Retail Opt-in Auctions. The Commission stated a customer participation cap would be an appropriate and useful mechanism for providing transparency to wholesale suppliers. We proposed that the cap be set at a date before the start of the auction in order to provide participating EGSs with an indication of the potential number of customer participants. December 16 Order at 34.

The Commission also proposed that the Retail Opt-in Auctions be one-time events, with no follow-up auctions occurring. December 16 Order at 34.

**Comments**

RESA and Exelon agree with the Commission’s proposals regarding customer participation caps. Exelon states that a cap would help to mitigate migration risk and place downward pressure on default service rates.

Direct Energy states that a customer participation cap is not needed if enrollment occurred before the actual auction takes place. This provides EGSs with certainty regarding the number of customers they would be expected to serve. Direct Energy continues to state that, if the Commission does have a customer participation cap, it should be the proposed 50% value so long as it is 50% of the default service customer base without any reductions for the number of customers who are currently shopping.

Duquesne supports the use of a customer participation cap and its establishment prior to both the wholesale solicitation for default service and the Retail Opt-in Auctions, in order to provide certainty to both wholesale and retail suppliers. Duquesne requests clarification of the proposed 50% value. Duquesne questions whether the 50% value applies to the number of customers being solicited for, or the number of customers allowed to participate in, the Retail Opt-in Auctions. Additionally Duquesne requests clarification as to whether the 50% cap is in addition to current shopping levels. Duquesne recommends that the percentage customer participation cap on customers electing to be served by an EGS via the Retail Opt-in Auctions should be no more than 50% of the EDC’s residential customers less the percentage of residential customers already shopping in the EDC’s service territory.

AARP/PULP/CLS, Citizen Power, Constellation and OCA all support the use of a customer participation cap, but note that 50% is too high to provide meaningful certainty and to limit impacts on wholesale auctions. AARP/PULP/CLS state that such a high cap is likely to result in only several very large EGSs participating in the auction.

Constellation avers that, without a lower cap, customers who choose not to shop or otherwise remain on default service will end up paying a premium for the uncertainty caused by the Retail Opt-in Auctions.

OCA states 20% would be a more reasonable and manageable cap for the Retail Opt-in Auctions as it prevents significant impacts on default service operations, including problems with purchasing and reconciliation.

WGES states that the 50% cap appears to be reasonable but notes that it is unlikely that participation will reach such levels.

Dominion, the FirstEnergy Companies, FES, PEMC and PPL all disagree with the imposition of a customer participation cap. PEMC provides three reasons why the imposition of a customer participation cap would negatively affect the Retail Opt-in Auctions and the retail shopping market. First, PEMC states that the cap may provide some degree of certainty to wholesale suppliers, but will provide no more information to retail suppliers participating in the voluntary Retail Opt-in Auctions than if there was no cap. Secondly, PEMC avers that the cap may discourage some EGSs from participating, creating less competition. Lastly, PEMC believes that, by limiting participation to 50%, but also acknowledging that the Retail Opt-in Auctions are one-time events, the Commission appears to be backtracking on its commitment to energize the retail electricity market.

Duquesne, Exelon, the FirstEnergy Companies, OCA, PECO and RESA all agree with the Commission’s proposal that the Retail Opt-in Auctions be one-time events. OCA states that the auctions are meant to provide a “jolt” to the market, particularly those service areas where switching has been light. The OCA believes that well-designed, one-time Retail Opt-in Auctions should be capable of providing a jumpstart for shopping activities without disrupting the market going forward.

As stated above, PEMC believes that making the Retail Opt-in Auctions one-time events, in addition to having customer participation caps, makes it appear that the Commission is backtracking on its commitment to energize the retail electricity market.

**Resolution**

While the Commission understands those parties’ comments suggesting that the cap be lower than 50% in order to provide more meaningful certainty to the EGSs, the Commission does not want to impose a limit that may lead to the rejection of customers wishing to participate in the Retail Opt-in Auctions. However, the Commission believes that a lack of a cap would provide no estimate of customer participation to both wholesale and retail suppliers. We believe the 50% cap provides both a large customer participation pool, while providing some level of certainty to those EGSs opting to participate in the Retail Opt-in Auctions.

Per some of the parties’ requests, we would like to clarify that the 50% customer participation cap means that no more than 50% of an EDC’s default customer base, i.e., non-shopping customers, may participate in the Retail Opt-in Auctions. This limit does not apply to the number of customers being solicited for the auctions.

The Commission understands, but rejects Direct Energy’s proposal that a cap not be implemented because the structure of the Retail Opt-in Auctions should have customer enrollment occur before the auction process. As addressed previously in this Order, the Commission does not agree with the enrollment of customers *before* the auction setting the price would occur. As such, Direct Energy’s proposal is moot.

The Commission disagrees with PEMC’s statement that the customer participation cap would provide no information to EGSs regarding participation levels. We believe that the provision of a maximum number of participants allows the EGSs some certainty in that they will not be expected to serve the entirety of an EDC’s default service, i.e., non-shopping, load.

We also disagree with the parties who stated that the customer participation cap may deter EGSs from participating in the Retail Opt-in Auctions. The Commission believes the 50% cap provides a large number of customers to be served by the EGSs in the auctions while still providing those same EGSs with some certainty as to the maximum number of customers they are expected to serve.

Further, we maintain our determination that the auctions only occur once. We disagree with PEMC that making the auctions one-time events with a customer participation cap backtracks on our goal of energizing the retail electricity market. From the beginning of the RMI discussions regarding the Retail Opt-in Auctions, it has been clear that such programs would be used to “jumpstart” shopping, specifically targeted to those customers who, for whatever reason, have chosen not to shop, and provide them with a safe entrance in the shopping market. As such, we believe it important to balance the needs of these customers with the needs of the EGSs participating in the auctions. In order to do so, we believe the “jumpstart” provided by making the auctions one-time events would be beneficial to customers in that the costs of such a program would not be repetitive and continuously borne by customers, either through EDC cost recovery or via EGS generation rates. We believe, as stated above, the 50% participation cap provides some level of certainty to the EGSs regarding the maximum number of participants they would be expected to serve in these programs.

1. **Supplier Participation Load Caps**

In the December 16 Order, the Commission proposed an EGS participation cap of 50% of the customer accounts for each EDC service territory. The Commission believed this was large enough to provide the necessary economies of scale to deliver a reasonable price while making it impossible for one supplier to capture the entire load. The Commission stated that this cap would help to protect both the diversity of the market and obtain reasonable Retail Opt-in Auction prices. In order to provide clarification, the intent of the December 16 Order language was to propose a cap of 50% of opt-in participant accounts to any one winning EGS. December 16 Order at 35.

In addition to a 50% EGS participation cap, the Commission endorsed the use of a tranche structure, similar to the structure used in wholesale default service auctions, which could help support participation from a diversity of EGSs. The Commission stated that a tranche structure would help provide EGSs with information to better grasp the potential number of enrollments that their participation in the Retail Opt-in Auctions may generate, given the Commission’s determination to hold the enrollment after the auction. December 16 Order at 35.

**Comments**

Constellation, Duquesne and RESA agree with the Commission’s proposals regarding the imposition of a 50% supplier participation load cap and the use of a tranche structure. RESA states that, by encouraging a variety of EGSs to participate and creating a situation whereby multiple EGSs are able to successfully win a portion of the Retail Opt-in Auctions, the Commission will be helping to promote robust interest in the auction.

Additionally, RESA suggests the requirement of a minimum number of winning bidders, specifically four. Dominion and PEMC both support the requirement of having a minimum number of winning bidders.

Dominion, PEMC and WGES all agree with the imposition of a supplier participation load cap, but suggest it be lower than the proposed 50%. Dominion suggests a cap ranging between 25% and 33% in order to address variations in the number of bidders/tranches in a particular EDC service territory. PEMC states that a cap of 33% will maintain a diverse selection of EGSs. WGES also recommends a cap ranging between 25% and 33%.

Exelon and FES disagree with the imposition of a supplier participation load cap. Exelon opposes the cap is it does not help to promote supplier diversity or increased participation, which can lead to higher prices. Exelon states, however, that, if the Commission imposes such a cap, it be high enough to ensure the best possible prices for customers. FES states that such a cap will result in sub-optimal pricing for customers.

The FirstEnergy Companies and PPL believe the imposition of a supplier participation load cap should be determined through the proceedings associated with each EDC’s default service plan filing. PPL states that the appropriate design of the Retail Opt-in Auction for one EDC may not be suitable for another EDC and, as such, a cap should be determined through the course of default service plan proceedings.

OCA expressed no opposition to the Commission’s proposals regarding the imposition of a supplier participation load cap and the use of a tranche structure.

As stated above, Constellation, Duquesne and RESA agree with the Commission’s recommendation regarding the use of a tranche structure for the Retail Opt-in Auctions. The FirstEnergy Companies and PPL also agreed with such a structure.

No parties opposed the use of a tranche structure.

**Resolution**

The Commission recognizes that a supplier participation load cap that is lower than 50% increases the likelihood that a number of different EGSs will be able to win customer accounts. However, we also recognize that a cap lower than 50% may be detrimental to the balance the supplier load cap is intended to achieve. This balance is between ensuring a diverse array of EGSs are able to participate and to enjoy the potential benefits of the Retail Opt-in Auctions while providing for the lowest pricing possible to consumers. The Commission continues to believe that a 50% cap is appropriate in achieving this balance. A cap that is lower than 50%, such as the 25%-33% range proposed by multiple parties, may result in an increased price. Further, caps in the 25%-33%, in a worst-case scenario, may result in a situation in which not all of the tranches are fully subscribed. We agree that a cap higher than 50% increases the possibility that only a few EGSs participate and serve customers in the Retail Opt-in Auctions. As such, we maintain our proposed supplier participation cap of 50% of the participating customer accounts within the Retail Opt-in Auctions.

At this time, the Commission will not take a definitive stance on the requirement of a minimum number of bidders, as proposed by RESA and Dominion. The EDCs may consider such a requirement within the parameters of their proposed Retail Opt-in Auctions. The Commission will evaluate the results of each opt-in auction to analyze certain criteria, including participation levels. At that point, the Commission may make a decision on whether or not a possible lack of participation warrants rejection of the auction results.

Further, as the Commission has received no opposition to the use of a tranche structure, we maintain our resolution to have the participating customer accounts grouped into tranches.

1. **Composition of Customer Offer - Product**

There has been much discussion on the product being offered to participating Retail Opt-in Auction customers.  Issues such as structure, fixed vs. variable rates, percentage off of default service rates, incentives, introductory rates, and the imposition of early termination fees have all been discussed. Some parties thought an incentive signing "bonus" of $50- $150, representing the customer acquisition cost the EGS avoided by obtaining the customer through the Retail Opt-in Auctions, would generate enthusiasm, attract customer attention and create a larger auction pool.  However, others expressed skepticism of anything that may appear "gimmicky" or distract a customer from paying attention to the price they will pay for regular monthly service.  Low-income and CAP customers may be particularly vulnerable to being persuaded by an up-front bonus into something they cannot afford in the long run. December 16 Order at 35-36.

There were also varying opinions as to how the regular monthly rate should be structured.  Some parties think that a set, fixed rate for the term of the program would be the simplest for a customer to understand and may also be simpler for participating EGSs.  It would provide certainty for both the customer and the EGS for a set period of time.  However, others pointed out that a fixed price that looks good when compared to the current default service rate may or may not be as attractive six months later, as EDC default service rates change quarterly.  As an alternative, some suggested a product that is priced at a certain percentage off the default service rate, such as 10%, and the price is adjusted accordingly each time the default service rate changes.  This could prevent the customer from ever being charged more than the EDC default service rate, which could minimize customer disappointment. Regardless of the rate model, consumer groups urged that the rate offers be fully and carefully explained to potential enrollees. December 16 Order at 36-37.

In the December 16 Order, we proposed that the Retail Opt-in Auctions’ product structure does not need to be uniform statewide. While we prefer as much uniformity as possible to make implementation easier and to simplify consumer education efforts, we are concerned that varying EDC default service rates make the use of a single, statewide product infeasible.  While we proposed that EGSs disburse the avoided customer acquisition costs by the payment of a bonus to the customers so that customers directly receive the benefit of these avoided costs, we expressed concern that a bonus structure may not be appropriate for all EDC markets given the status of default service rates, and that perhaps the avoided acquisition costs should instead be reflected in the regular monthly rate in some markets. December 16 Order at 37-38. As a result, we proposed two possible product models that we specifically invited comments on:

(1) *Fixed Rate Product with a Bonus*: The fixed rate will provide certainty to both EGSs and customers. While the possibility exists that the fixed rate could eventually exceed the default service rate at some point (depending on quarterly adjustments), the customer will have received a bonus of $50-100 to ameliorate this concern.

(2) *Percent-Off Rate, No Bonus*: The rate will be set at a certain percentage off of the EDC default service rate and will be adjusted to reflect the quarterly fluctuations of the EDC’s default service rate. This will provide customers with the certainty that they will never be paying more than the EDC’s default service rate.  However, in return for this certainty, the EGS does not have to provide a bonus payment.

December 16 Order at 38.

The Commission also proposed that a customer should be free to exit the auction pool at any time, but that if a bonus payment is part of the customer’s rate structure, we agree that it is reasonable to deny the bonus if the customer fails to remain in the pool for a period not to exceed three months.  We also proposed that an introductory rate structure is inappropriate for this kind of program, and that the only kind of variable rate structure that should be allowed is that linked to the default service rate. December 16 Order at 38.

**Comments**

PECO notes that its Retail Opt-in Auction proposal calls for a 12-month program and EGS bids must be at least five percent less than PECO’s DS PTC, and all participating customers will have the same standard terms and conditions. The FirstEnergy Companies oppose “short-term teaser rates or marketing gimmicks” that they think could lead to increased complaints and call volumes. Instead, the First Energy Companies support a percentage-off-the-PTC with no bonus payment. They have proposed this model in their recent DSP filings. In their reply comments, the FirstEnergy Companies state that a two-year offer is possible if these programs occur after the last default service auction; allowing a bidder to reasonably estimate the PTC during the entire term of the program. Duquesne agrees that a percent-off, no bonus model would probably be easier to understand and possibly more attractive, but also agrees with both of the pricing models proposed and plans to include one of these models in its default service proposal. PPL does not have a preference for either proposed model and believes that both have their merits and that either can work. As such, PPL believes that it would be appropriate to allow each EDC to select an approach from among a slate of acceptable models because a product that is successful in one territory may be different than a product that is successful in another. PEMC also agrees in flexibility, but urges the Commission to provide “clear, specific, and transparent guidance to the EGSs and EDCs about which products are acceptable, and which are not.” In its reply comments, PEMC voices concern with products proposed by Duquesne, OCA and Exelon because it believes these products would put significant risk and cost on most suppliers, except for the larger ones who can rely on parent companies to provide additional capital while offering “loss-leader” products. Exelon supports the two proposed models, but also suggests a third model - a fixed-price product with no bonus – because they believe that not requiring the supplier to offer a bonus would likely lower the overall price. Dominion believes that a one-year program offering either pricing model is acceptable, and that exit fees are not appropriate for this type of program.

Constellation does not support a bonus payment as part of any pricing model and also prefers that there only be a single auction product – a fixed-rate product that is a specific percentage discount off the PTC. If a bonus payment is allowed, Constellation thinks it is reasonable to deny the bonus if the customer fails to remain in the pool for a minimum period not to exceed three months. FES likewise opposes the use of bonus payments as it may limit the number of participating suppliers due to the requiring of large, up-front payments that will likely strain the liquidity of suppliers who might otherwise be able to participate. FES believes that the EDC should choose either a fixed-price or a percent-off price model, with no bonuses – but if a bonus is included, it should not exceed $100. FES further maintains that allowing a fixed price to exceed the EDC’s DS PTC will lead to customer frustration, but could be avoided by adjusting the fixed price to remain at, or below the default price when price updates occur. OCA, while stating that both proposed models could be reasonable and provide benefits, also proposes a third model where a fixed rate product could be adjusted downward to match a lower default price if needed. In their reply comments, OCA emphasized that, regardless of product, there should be no exit fees because the use of such will be contrary to the intent of the program. Citizen Power believes the percent-off rate with no bonus is the preferred model because the customer is guaranteed a reduced rate for the period of the offer. If the Commission allows a bonus model, Citizen Power suggests that the fixed rate be set at a point where it is unlikely to go above the future default rate.

WGES would also prefer a fixed-rate product with no bonus because it believes that bonuses can encourage “serial switching” and can distract customers from understanding supply pricing. WGES further believes that customers must be required to stay with the supplier for the program term. Spark Energy also expresses reservations about the bonus model as possibly providing too much of an incentive for customers to renege on their current contracts. Spark Energy thinks that any program that offers a bonus should specify that the bonus is not available to customers who have previously received service from a supplier. Additionally, existing suppliers should be reimbursed for an early termination fee – in effect, putting a lien on the customer’s bonus – if a customer departs the supplier to join the auction pool without paying the fee. Spark Energy is concerned that the use of bonuses could encourage more suppliers to adopt large early termination fees; as has happened in the telecommunications industry as providers have used large termination fees to fend off “free phone” and other service offerings from competitors.

Direct Energy is skeptical of the percent-off price model because it is only feasible where the default rate is a true market rate that a competitor can reasonably predict. Current default rates are not true market-reflective rates due the reconciliation mechanisms for EDC cost recovery. Direct Energy also contends that today’s default rates have never been fully examined or properly unbundled to reflect all default service related costs. For these reasons, requiring that an EGS offer a rate that is firmly linked to the default service rate for the entire time period of the auction pool is not reasonable. As such, Direct Energy prefers a fixed-rate model with a bonus. Direct Energy believes the bonus is important because, without it, the offer will be “very similar to the garden variety price discount offers that most EGSs use” and will thus attract fewer customers. Finally, in its reply comments, Direct Energy states that it could accept a “guaranteed savings” approach, but only if the PTC is known for the entire 12-month term of the program.

**Resolution**

There are significant differences in the positions of the parties as to how the customer offer should be structured and we acknowledge that there are good arguments to make supporting many of these differing positions. In deciding how to structure the offer, we think it is important to keep in mind that the target of the Retail Opt-in Auctions is those default service customers who, for whatever reason, have not shopped. There is no reason to believe that these customers will respond to a Retail Opt-in Auction product that is similar to products that have been on the market for a long time. As such, we believe that the Retail Opt-in Auction product has to be something unique and eye-catching, and as customer-friendly as possible. And while we understand the desire of some parties to have an array of possible product types, we agree with PEMC and WGES that it is important that the Commission identify the key elements of the product to be offered to customers.

We understand the concerns of the parties that objected to a bonus payment as part of the program structure. We do not want a bonus so large that it precludes the participation of all but the largest suppliers with access to large amounts of capital. We also do not want to create a shopping environment that is bonus dependent - conditioning customers to always expect a bonus; or to focus on bonuses when they should be paying attention to monthly rates and other supplier services. However, we agree with Direct Energy that, without some sort of attractive unique feature, like a bonus, the customer offer will look too similar to routine supplier offers – offers that these target customers have already ignored. As such, we believe a bonus payment of $50.00 is a reasonable incentive and should be large enough to attract attention. We agree that customers should have to remain with the program for three entire billing cycles as a condition of receiving the bonus, and customers should then receive the bonus shortly after qualifying for it. We also agree with Dominion, OCA and others that, in the interest of making this program as attractive and consumer-friendly as possible, there should be no exit or termination fees. Customers should be allowed to shop for other suppliers or return to default service at will (using the usual switching process to change suppliers).

While the Commission understands that a percent-off the default PTC may be attractive from a customer’s perspective because it guarantees that the price he or she is paying will never exceed the utility default price, we agree with Direct Energy that this is an unrealistic expectation from the supplier’s perspective. As Direct Energy points out, the utility’s default service rate is not fully reflective of the market because it is also impacted by the reconciliation process. Predicting market prices in advance is always challenging; we think that adding to this the vagaries of the reconciliation process is asking too much. This same problem afflicts FES and OCA’s suggested model of adjusting an otherwise fixed price down to match or beat the default service rate. As such, we think a fixed-price product is the most reasonable monthly pricing option, and we agree with PECO that the price should be at least 5% off the default PTC at the time of the auction. While we hope for a larger discount to attract the most customers, we believe anything less than 5% will not attract the attention of the target customers. A fixed price will provide both the suppliers and the customers with price-certainty. There is always the possibility that the fixed-rate may exceed the default rate at some point, but the bonus payment the customer received will help ameliorate this concern. Additionally, the customer is free to shop for another supplier or return to default service without penalty (excepting, as noted above, if the customer departs prior to the conclusion of the third billing cycle, they do not receive the bonus payment).

1. **Customer Options Upon Program Expiration**

In our December 16 Order, we observed that there were a variety of potential customer options to consider at the conclusion of the Retail Opt-in Auction’s program term. Those options included: (1) the customer automatically stays with the EGS in the event he or she does not request to leave that EGS’s service; (2) the customer stays with the EGS in the event he or she opts to do so; and (3) the customer is automatically returned to the EDC-provided default service. December 16 Order at 39. After reviewing the various positions taken during the technical conferences, we tentatively determined that program participants should be treated no differently than any other shopping customer when the program ends and that the Commission’s renewal notice guidelines should be fully applied. We found that, in the event that a customer simply failed to respond to any notice of a change in terms and conditions of service, the EGS can provide a product on new terms and conditions as long as the product is month-to-month with no early termination fees. We also observed that there was no requirement that an EGS continue to provide service at the conclusion of the program term, emphasizing the advance notice requirements. December 16 Order at 40.

**Comments**

OCA comments that customers should receive three notices about program termination rather than the two notices now required by the Commission’s regulations at 52 Pa. Code § 54.5(g)(1). OCA suggests that the first notice should occur 90 days prior to the program end date notifying customers that the program will end. The second and third notice should be sent in accordance with the Commission’s regulations, preferably at 60 and then 45 days prior to the program end. OCA states that the final 45 day notice should provide customers with their specific options available at the end of the program term.

OCA also commented on the issue of disposition of customers who fail to affirmatively respond to the end of program notices. OCA states that customers who fail to affirmatively respond must be provided with a fixed-rate product that can be terminated by either the customer or the suppler on a month-to-month basis. OCA expresses concern that moving customers to a variable rate product has the potential to create confusion, misunderstanding, mistrust and lack of incentive for customers to shop in the aftermath of such a situation.

AARP/PULP/CLS have similar concerns. They assert that, absent an affirmative choice by the customer at the conclusion of the program, the customer should be returned to the EDC’s default service. AARP/PULP/CLS states that the Retail Opt-in Auctions are not typical of EGS offers of service in the regular marketplace. Accordingly, AARP/PULP/CLS speculate that customers will assume that they cannot be subject to higher rates and may not be properly informed of the potential for higher rates in comparison to the default service rate at the conclusion of the program. Citizen Power also argues that customers who do not affirmatively respond to the end of term notices should be returned to the EDC’s default service unless the EGS agrees not to raise its rates more than 25% above the initial term rate for a full year after the end of the program term. Duquesne states concerns similar to those expressed by AARP/PULP/CLS.

The balance of the comments received on this issue support the Commission’s tentative resolution stated in our December 16 Order. For example, PEMC states that the purpose of the Retail Opt-in Auctions is to encourage shopping. Returning participating customers to EDC default service upon expiration of the program term would undermine that purpose.

PPL also agrees with the Commission’s tentative determination, but suggests that end-of-program communications should be made a specific requirement. FES also agrees with the Commission’s tentative determination that customers who do not take affirmative action to move from their program EGS will remain with that EGS. FES states that the return of a large number of customers to default service would negate the purpose of the Retail Opt-in Auction.

**Resolution**

The Commission reiterates that the Retail Opt-in Auctions are *opt-in*. As such, customers will voluntarily make an affirmative choice to participate. At the time that customers make their choice to participate, they will be informed that the program term, including any prices, will conclude on a date certain. In addition, any EGS participating in the retail auction program must provide the notices mandated in our renewal notice guidelines.[[15]](#footnote-16) Those guidelines provide that each customer will receive two notices; an initial notice 52-90 days before the end of the program followed by a more detailed “options notice” at least 45 days before the program ends. The options notice will provide new terms and conditions, pricing, other options and a date by which the customer must take action.

We agree that an automatic return to EDC default service at the conclusion of the program defeats the entire purpose of the Retail Opt-in Auctions. As stated above, a customer will voluntarily enter into the retail marketplace through the auction process. While in the program, the customer will receive generation supply from an EGS (an entity other than the EDC), receive billing and usage information about his or her competitive generation supply and hopefully attain some comfort level with the marketplace and the experience of receiving generation supply from an EGS. As the program approaches the end of the term, the customer will receive the required notices about the program’s termination, any changes in the terms and conditions offered by the current EGS, his or her options upon the conclusion of the term and a timeline within which action must be taken.

The current state of the market is that, if a customer reaches the end of an EGS provided fixed-term product and takes no affirmative action, the customer remains with their current EGS until the customer takes some other action to change suppliers. Further, the customer remains with that EGS on a month-to-month basis, and there can be no fee or termination penalty for leaving that EGS. Recall that the customer has already made an affirmative choice to participate in the program and will have received all required notices advising them that a change in terms and conditions will occur, what those changes will be and what options are available to the customer together with a time for action. If there is an automatic return to the EDC’s default service, we not only ignore the purpose of the entire program, we also fail to give effect to that customer’s initial choice.

This situation is somewhat analogous to the Commission’s decision in *Petition of Pike County*, Docket Number P-2008-2044561 (order entered on July 26, 2010; Reconsideration entered on October 14, 2010). In *Pike County*, this Commission held that customers who were assigned to an aggregation program on an opt-out basis, and remained on that program for three years without making an alternative choice during that time, were deemed to have made an affirmative choice to remain with the aggregation program EGS. The Commission stated that if those customers were automatically returned to the EDC’s default service without an affirmative action by the customer, such an action would fail to give effect to their initial choice, contrary to Section 2807(d)(1) of the Public Utility Code, 66 Pa. C.S. § 2807(d)(1).

We find that the circumstances surrounding the retail opt-in auctions are even more compelling than *Pike County*. Here, the customers are participating in an opt-in auction; they are affirmatively exercising their choice to participate. As in *Pike County*, an automatic return to EDC provided default service without affirmative customer action would not give effect to the customer’s initial choice.

For the reasons stated above, the Commission maintains its determination that, upon expiration of the Retail Opt-in Auction program term, a customer who makes no other choice – does not (1) renew the contract with the current EGS; (2) switch to a new EGS; or (3) return to EDC-provided default service – will remain on a month-to-month contract with his or her current EGS, without the risk of the imposition of termination penalties or fees.

1. **Opt-In Auction Structure**

In the December 16 Order, we solicited comments on the appropriateness of recommending either a sealed bid auction or a descending clock auction. The Commission did not provide a specific endorsement of either process. Additionally, the Commission recommended that customer accounts should be randomly assigned to winning EGSs. December 16 Order at 40-41.

**Comments**

PPL believes that there is little to be gained from discussing the merits of a sealed bid auction versus a descending clock auction, as either proposal has its pros and cons. PPL contends that any commonly-used approach will provide a reasonable result. Similarly, Constellation submits that either a sealed bid process or a descending clock auction would work well to provide a single clearing price. Exelon also supports the use of either a sealed bid or descending clock auction, so long as the auction is as competitive and transparent as the chosen process allows. PEMC states that there are benefits and setbacks to either a sealed bid auction or a descending clock auction. Accordingly, PEMC recommends that additional discussions be held in the RMI technical conferences to further consider these two options.

Dominion supports the use of a sealed bid process. Dominion states that it believes a sealed bid process will produce the best results for consumers and will encourage broader participation in the market by EGSs. Spark Energy avers that a sealed bid process is more appropriate than a descending block process for one-time Retail Opt-in Auctions. Spark Energy submits that a sealed bid auction would be less complex and expensive to conduct. Further, Spark Energy opines that there is no reason or evidence to suggest that one approach would produce a lower price than the other, given the various bidding strategies available under the sealed bid or the descending clock auctions. Therefore, Spark Energy favors the use of a sealed bid auction. Spark Energy submits that the tranche prices in all sealed bids should be ranked in order from lowest price to highest. The winning tranches and corresponding EGSs would then be chosen up to the level where all tranches are filled. The bid price that filled the last remaining tranche would then set the single price that all winning EGSs receive.

WGES avers that a properly-designed and operated descending clock auction will result in more robust and aggressive bidding activity with the lowest prices for participating customers. FES opines that a sealed-bid RFP will not result in the lowest price possible for customers. As such, FES submits that a descending clock auction structure should be required. In support, FES states that the transparency and bidding behavior in a descending clock auction provides the most benefits to customers because it results in the lowest possible price. FES also contends that the structure of the Retail Opt-in Auctions will not facilitate the averaging of multiple winning bids into one single price because each customer will have his or her own contractual and pricing relationship with an individual EGS. Consequently, FES submits that the Retail Opt-in Auction price will have to be the lowest price where all tranches are cleared. FES avers that a descending clock process will facilitate the attainment of a single price where all tranches are cleared.

PPL and OCA agree that customer accounts should be randomly assigned amongst winning EGSs in accordance with the number of tranches they have won. Constellation states that customer load should be bid by allocating specific customers to “bid groups” in advance of each bid, so that EGSs know exactly what they are bidding on.

Duquesne raises concerns with the Commission’s recommendation to randomly assign customer accounts to winning EGSs. Specifically, Duquesne questions whether such a provision constitutes an affirmative selection of a suppler as required under the Public Utility Code. Further, Duquesne contends that such a provision may cause problems when the customer eventually learns the identity of any assigned supplier. Duquesne states that it appears a customer would need to elect his or her supplier to avoid this issue. As an alternative, Duquesne submits that the assigned supplier could be required to contact the customer to confirm the service and confirm the enrollment with the customer.

OCA submits that the participating EGSs should be responsible for all reasonable auction structure/implementation costs. UGIES similarly states that cost to administer the Retail Opt-in Auctions should be recovered from those suppliers participating in the program.

**Resolution**

Upon review of the comments from the parties on this issue, the Commission agrees with Constellation’s submission that either a sealed bid process or a descending clock auction would work well to provide a single clearing price. Consequently, the Commission will not provide a specific recommendation as to what structure should be used.

As to Duquesne’s argument concerning affirmative customer selection of a supplier, the Commission believes that properly-structured Retail Opt-in Auctions may alleviate these alleged concerns. For instance, if all the participating suppliers are listed on the opt-in enrollment communication, then customers would affirmatively be choosing to receive a uniform service from any one of these suppliers. With that understanding, the Commission agrees with PPL and OCA, and will therefore retain its initial recommendation to randomly assign winning EGSs to participating customers. Additionally, the Commission will not endorse Constellation’s proposal to assign customers into bid groups before the auction, given our recommendation to hold the auction before the enrollment.

Concerning the OCA’s and UGIES’s request to have participating EGSs pay for the cost of implementing the Retail Opt-in Auctions, the Commission agrees. In the Commission’s view, having the participating EGSs pay for the auction implementation is a prudent way to recover the auction costs, given that the participating EGSs are the entities reaping the possible customer acquisition benefits resulting from the auction.

1. **Creditworthiness and Security**

Prior to the December 16 Order, the Retail Opt-In Auction Subgroup of the Investigation discussed EGS creditworthiness and security but did not present a specific proposal on these issues. Such security, theoretically, would cover any EDC obligations incurred due to non-performance by a participating EGS. The primary issue appears to be what financial assurances, if any, participating EGSs should be required to provide to the EDC in order to participate in this program. Some parties believe that financial assurance should cover both performances under energy supply and under incentive payments, while others insisted it is only necessary to cover incentive payments. In the December 16 Order, we invited parties to comment on the need for security. Parties expressing such need were to comment on what obligation should be secured and the appropriate security amount. December 16 Order at 41-42.

**Comments**

PECO avers that security would only be necessary to the extent that an EGS offered incentive/bonus payments as a part of a Retail Opt-in Auction. PECO further opines that security for energy is not necessary because, in the event that an auction supplier defaults, the customers receiving service from that supplier would be transferred back to default service at the applicable default service rate.

The FirstEnergy Companies maintain that, subject to the parameters and criteria contained in their proposed Retail Opt-in Auction, contained in their DS plan, the FirstEnergy Companies will not require security in excess of the existing security requirements contained in their respective supplier coordination tariffs; however, an EGS must post security in order to participate in the Retail Opt-in Auction. The FirstEnergy Companies contend that the requirement to post security to participate in the Retail Opt-in Auctions should not be viewed as additional security in the same way that security is required under the coordination tariffs, but instead should be viewed as a means to ensure a winning bidder follows through on its commitment to sign the opt-in agreement. The FirstEnergy Companies go on to point out that auction suppliers must be licensed by the Commission to offer and supply competitive retail electric services in the Commonwealth and be members in good standing with PJM Interconnection, LLC.

Very broadly, OCA does not oppose the concept of creditworthiness and security requirements for EGSs, since it is likely that costs of supplier non-performance ultimately will be imposed on customers. OCA does, however, opine that it has a strong interest in ensuring that such requirements are not excessive, since any such cost will be priced into auction bids, or, may limit an EGS’s ability to bid.

RESA contends that EGSs should be required to demonstrate their operational and financial fitness to serve and their ability to comply with Commission regulations, orders and applicable laws consistent with the requirements of 52 Pa. Code § 54.183(d). RESA further states that any additional credit and/or security requirements the Commission may choose to implement must be based on unambiguous, transparent credit analysis that identifies definable credit risks that may be incurred if a winning EGS fails to perform.

PEMC proposes that default customers pay part of the risk premium in exchange for the certainty of being served at the same rate by another supplier in the unlikely event of a supplier default. PEMC maintains that this approach would ensure that consumer benefits are properly aligned with consumer costs as well as guarding against a “cascading” default scenario where one supplier defaults and the following obligation to serve at a pre-determined price causes another default and so on.

Dominion states that most parties do not suggest requiring additional security, other than incremental security for components of such programs that may go beyond selling energy to consumers – such as guaranteed payments or bonuses. Dominion agrees that security levels should not be increased on a per-customer basis above what the Commission currently requires in its security requirements, only that such bonding levels should be attained prior to consumers being assigned.

FES does not believe that any additional credit requirements are necessary as part of the Retail Opt-in Auctions. FES maintains that existing credit requirements provide adequate protections to cover electricity supplier default risk. Additionally, participating suppliers will already be qualified suppliers with the EDC and the Commission, and they will have already met their credit requirements and obligations.

Constellation concurs with the Commission, as written in the December 16 Order, that security theoretically should cover the EDC’s obligations incurred due to non-performance by a participating EGS.

PPL opines that the financial assurance required of participating EGSs with regard to energy supply should be the same as those described in the Coordination between EDCs and EGSs section of this Order. WGES also deferred its comments to that discussion.

**Resolution**

After review of the parties’ comments, the Commission, at this time, will not require additional credit requirements above and beyond that of existing credit requirements contained in each EDC’s respective supplier coordination tariffs for the Retail Opt-in Auctions. However, credit requirements for the Retail Opt-in Auctions will reflect, any changes that may arise from the Risk Assessment Working Group, as described later in this Order. We further find that it would be counterproductive at this time to implement changes on issues that the appointed working group may reach consensus.

1. **Other**

In the December 16 Order, the Commission also invited comments from parties on any other aspect of the Retail Opt-in Auctions that may have been overlooked in our proposals. As an example, there was very little, if any, discussion of any reporting requirements or post-program reporting and analysis. Various parties did offer comments on a variety of issues not specifically addressed in the December 16 Order.

OCA submits that a post-auction report, including the number of customers solicited, enrolled and switched; timeframes; customer feedback; and expenses could be useful to the Commission and other parties. However, FES asks that any such reporting requirement be limited only to the information needed to evaluate “lessons learned,” such as the number of customers participating; how long they stayed with the program; and how many returned to default service. FES cautions against overly-burdensome detailed requirements or disclosing any information that may be considered proprietary.

Direct Energy urges that, if the Retail Opt-in Auctions are to be successful, the offer to participate must come from the EDC. If the EDC does not provide the mailing, the offer could be viewed by customers as just another EGS solicitation. Direct Energy believes that, given the special status accorded the EDC by customers, it is likely to be opened and read and the information to be considered to be more trustworthy than an offer from a supplier. Moreover, Direct Energy asks that any mailing be designed to make it as simple as possible for customers to opt-in and should include pre-populated customer information so that the customer need only check a box and return to the card to participate.

Constellation believes that, to be successful, any program structure must provide EGSs, in advance of the auction, ample data on customers who have opted in. This includes three years of historic hourly load data, peak load contribution and network service peak load (NSPL) data, and any other similar data.

NEM suggests that the name of the supplier chosen to serve a customer should be included on the customer’s bill. This will allow customers to become better acquainted with suppliers and establish a relationship with an EGS, which is a primary goal of these efforts.

UGIES believes that the costs of administering opt-in programs should be recovered from those EGSs who participate in the program. UGIES believes that these programs replace certain marketing efforts and expenses and that those EGSs that have already invested in marketing and advertising will be disadvantaged as these programs will attract new entrants that can bypass the customer acquisition process. As such, other suppliers, and customers, should not have to pay for the costs of these programs. AARP/PULP/CLS also express concerns about the costs of these programs and asks the Commission to carefully consider the need for, and recovery of, related costs. They believe that mandating such programs without regard to current EGS activities and customer shopping, and without regard to the potential costs that may be incurred by all customers, would be unreasonable. PCADV echoes this concern. OCA supports what PECO has proposed – recovering costs from the POR discount – as an approach that could be used. At a minimum, OCA urges that EGSs participating and winning in this process should bear a share of the costs.

**Resolution**

We agree with OCA that a post-auction report is appropriate, but we also agree with FES that this should be limited to just basic information and should not include any information that could be considered proprietary. As such, we believe that, at the time the program starts, EDCs shall file a brief report with the Commission that includes: (1) the number of participating customers and the percentage of the residential customer class this number represents; (2) the participating suppliers; (3) the rate being charged to program participants; and (4) a brief description of customer feedback based on any calls received by the utility, including a summary of concerns and/or questions posed by callers. Additionally, within 90 days of the program’s conclusion, EDCs should submit a second report to the Commission that includes: (1) the number of participating customers and the percentage of the residential customer class this number represents; (2) how many of the participating customers returned to default service during the course of the program; (3) how many of the participating customers returned to default service at the conclusion of the program; and (4) a brief description of customer feedback based on any calls received by the utility, including a summary of the concerns or questions posed by callers; and (5) a summary of the EDC costs associated with the program.

We agree with Direct Energy that the offer to participate in the program must come from the EDC because, as Direct Energy points out, rightly or wrongly, the customers are more likely to pay attention to and trust something that comes from an EDC than from a supplier. Again, the target customers for this program are customers who have a history of ignoring supplier offers in the past, so there is little point in having the EGSs extend the Retail Opt-in Auction offer to the customer. We also agree with Direct Energy that, given the target audience, responding to the offer to participate must be made as simple as possible. A response post card should be as pre-populated with as much customer information as possible, and enrollment mechanisms such as calling, accessing a website, etc. should be considered.

We agree with NEM that the supplier’s name should appear on the customer’s bill and we note that our regulations already require the supplier’s name, address and phone number to appear on the bill. *See* 52 Pa Code § 54.4(7). We believe Constellation’s concerns with the data to be provided suppliers prior to the auction is moot because we have concluded that the auctions are to occur prior to customer enrollment (please refer to our earlier discussion on Retail Opt-in Auction Timing).

As for the costs of the Retail Opt-in Auctions, we agree with UGIES and OCA that, in general, most, if not all, of these costs should be recovered from participating suppliers. The participating suppliers will be receiving customers via this program in a manner that negates almost all of the usual customer acquisition costs. As such, it is only fair that the suppliers, as the prime beneficiaries of the program, should pick up the associated costs. We advise EDCs, in their program filings, to propose mechanisms to identify and recover the costs from participating suppliers. For example, we agree with OCA that recovering the costs using the POR discount, as PECO has proposed, should be considered. Other mechanisms, such as using auction application fees to recover the cost of the auction process, should also be considered.

1. **Default Service Price to Compare on Bills**

Placement of the DS PTC on EDCs’ monthly electric bills is intended to let customers know the price that they are paying for default service so the customer can then use this information when shopping for competitive generation supply.  With the now-quarterly changes to the default service PTCs, there are concerns that the traditional annual/semi-annual bill insert notices are no longer a timely or effective method of providing PTC information to consumers. As such, OCMO has explored this issue with EDCs, EGSs and consumer representatives in the Committee Handling Activities for Retail Growth in Electricity (CHARGE) and the topic was also discussed in the RMI at both the August 10 and August 31, 2011 technical conferences.

The Commission’s billing information regulations,[[16]](#footnote-17) with one exception,[[17]](#footnote-18) do not address or require the placement of the EDC’s default service PTC on customer bills.  Based on discussions in the above-noted forums and exploration of the issue by Commission Staff, it appears that all of the major EDCs currently do place the default service PTC on their bills.  However, how the PTC information is displayed varies from EDC to EDC.  While some EDCs place the customer’s current PTC on the bill, others include some information indicating that the PTC provided is effective for a specific time period.  Additionally, some EDCs place the average PTC[[18]](#footnote-19) for the customer’s rate class on the bill, while others calculate a customer-specific PTC.  In some cases, such as PECO, there are provisions in default service settlements[[19]](#footnote-20) that govern the placement of PTC information on customer bills. December 16 Order at 43.

Concerns about placing the default service PTC on the customer’s bill have been expressed in the CHARGE and RMI forums.  One concern is that simply placing the PTC, by itself, on the bill provides insufficient information for the customer to use when shopping and comparing prices.  It can also create an impression that the price for default service is permanent or fixed when in fact, it can change quarterly, as it does for most EDCs.  Some participants expressed concern that placing the current PTC on the bill is of little use to a customer when shopping because the PTC, which changes quarterly, will likely expire by the time the customer actually starts receiving service from a supplier.  Concerns were also expressed that placing the default service PTC on the bill inappropriately invites the customers to compare a competitive offer with the default service rate, with some believing that customers really should be comparing the competitive offers of one supplier with the competitive offers of other suppliers.  Some also objected because the term itself appears to invite comparison based only on price; and not on other products or services that may be compared and considered when a customer is shopping for a supplier, *e.g.*, renewable options. December 16 Order at 44.

While the Commission understands the concerns expressed by some parties with placing the default PTC on bills, given the current default service market model, with PTCs changing quarterly, it is important that customers know their default service PTC.  Accordingly, in the December 16 Order, we proposed to require that EDCs place current PTCs on customer bills as follows:

* The PTC for the customer’s rate class; or a customer-specific PTC for those EDCs and rate classes where the EDC has previously committed to provide a customer-specific PTC.  The price should be labeled “Price To Compare.”  If the PTC varies within a rate class as a function of usage characteristics, a customer-specific PTC should be provided;
* A statement of when the PTC will be in effect, that the PTC can be adjusted and an explanation about how often it can be adjusted;
* A reference to PAPowerSwitch.com as a source for more information (space permitting).

December 16 Order at 45.

The following example shows how this information could be presented on a bill:

**Your Price To Compare for your rate class is X.XXX per kWh through \_\_/\_\_/\_\_.  This can change quarterly.  For more information and supplier offers visit** [**www.PAPowerSwitch.com**](http://www.PAPowerSwitch.com)**.**

Included in the proposal was flexibility in allowing the EDCs to develop the wording, format, and placement of this information as they see fit, as long as the basic information stated above is provided.  In addition, we proposed to allow EDCs to omit the referral information to PAPowerSwitch.com if space limitations on the bill do not permit its inclusion.  December 16 Order at 45.

**Comments**

PECO reports that it currently provides actual PTC information on default customer bills and average PTC information on shopping customer’s bills. PECO estimates the cost of modifying its billing to accommodate the Commission’s proposed language at $125,000, but the cost and complexity would be reduced if PECO is not required to provide the exact end date of the PTC. PECO believes that a statement to the effect that the PTC can change quarterly provides customers with the information they need to make shopping decisions; exact end dates are not necessary. The FirstEnergy Companies report that they already provide a customer-specific PTC and generally support the Commission’s proposals. However, they suggest that the Commission should clarify that the PTC bill message should be placed on all customer bills regardless of shopping status, and that the Commission provide sufficient time for EDCs to revise their bill programming to accommodate any new requirements. The FirstEnergy Companies also note that larger customers with hourly pricing do not have predefined periods by which their generation rate is in effect.

PPL reports that the information it places on its bills substantially aligns with the Commission’s proposal, but does note some concerns. While PTCs can change quarterly, it does not change on calendar quarters, and this could confuse customers. Also, PPL has included, at its request, OCA’s website address on customer bills. Adding additional language may require the deletion of the OCA address. Duquesne believes that inclusion of customer-specific PTCs is too burdensome and that an average PTC, along with language informing customers that their actual PTC may differ based on their specific demand and usage patterns is sufficient. Duquesne agrees to the placement of a statement indicating the time period when the PTC will be in effect, and when and how often it will be adjusted. Duquesne also agrees to include a reference to PaPowerSwitch.com but notes that this website does not have commercial or industrial PTCs, or EGS prices. However, FES suggests that, if PaPowerSwitch.com is enhanced to include commercial information, a reference to it on the bill would be appropriate. Citizens’ and Wellsboro reports that, after consulting with their billing contractor, they can accommodate the proposed requirements. PCL&P reports that it currently has the PTC and a reference to PaPowerSwitch.com on the bill. However, instead of indicating a specific date for the next price change, they would prefer listing the four months in which the price will change because they do not have the mechanism in place to automatically populate specific dates.

In general, suppliers have mixed opinions on this topic, with some outright opposing the idea. RESA fully supports the proposed language but recommends that the Commission continue to reevaluate this issue as the market matures. RESA is especially concerned that placing this information on the bills of shopping customers provides a competitive advantage to the EDC. PEMC is seriously concerned with the Commission’s proposal to include the PTC on all customer bills. By doing this, PEMC contends that the Commission is “perpetuating the misperception that utility supply is the ‘default’ for consumers, rather than a backstop or last resort” and that it encourages “customers to focus solely on price comparisons, rather than taking into account the range of products and services that suppliers offer.” PEMC continues that, if the Commission proceeds with this proposal, EDCs should be required to include information indicating that the PTC is only valid for certain dates and does not reflect what price changes may occur in the future. Additionally, in its reply comments, PEMC suggests that using the “Provider-of-Last-Resort rate” would be preferable to “Price To Compare” in that it would be a “step towards shifting consumer perceptions away from viewing the default service as ‘the rate to beat’.” PEMC also objects to PECO’s proposal to not include a specific date when the PTC will change. PEMC believes that including specific dates would send a message to consumers that they need to shop to avoid potentially adverse rate changes. PEMC asks that the Commission revisit this issue in the future.

Dominion and WGES also oppose placing the PTC on the bill, but if the Commission insists, they ask that it be labeled as a quarterly variable price that will change. FES believes customers’ bills should contain a customer-specific PTC, the dates the PTC is effective and when it will change, and a reference to PaPowerSwitch.com. UGIES suggests changing “can change quarterly” to “will change quarterly” to reflect that the utility PTC is not a fixed rate. They also suggest changing the term from “Price To Compare” to “Default Service Rate” because “Price To Compare,” UGIES believes, incorrectly suggests that it is the only basis for comparison that a shopping customer can utilize. Constellation supports the Commission’s proposed language but recommends that the Commission clarify that this information is required only on default customer bills. Constellation also notes that, in its opinion, too much emphasis on PTC improperly encourages customers to base their decisions on price alone. NEM supports the Commission’s proposal on the presentation of customer-specific PTCs as it believes it will provide consumers with a greater understanding of the true nature of the utility default service rate and that it will change. However, like UGIES, NEM recommends the phrase “can change quarterly” should be changed to “will change quarterly” and, and for reasons similar to UGIES, the Commission should consider changing “Price To Compare” to “default service rate.”

OCA supports the Commission’s proposal but asks for the inclusion of the OCA’s website ([www.oca.state.pa.us](http://www.oca.state.pa.us).), along with PAPowerSwitch.com, where space is available. OCA notes that, since 1999, it has published, and made available on its website, shopping guides that provide shopping information, and that PPL bills currently include a reference to the OCA’s website. OCA objects to changing “can change” to “will change” because they believe PTC quarterly changes are modest and “can change” captures the essence of the issue when informing customers that the price can change. OCA also does not support any recommendation to change the PTC to another term because the current terminology is thoroughly entrenched in consumer education literature and efforts. OCA supports providing PTC information on all bills in the belief that this will help ensure that all customers are well informed. AARP/PULP/CLS likewise support the Commission’s proposal because they believe it is important that customers see a uniform disclosure of the PTC on every bill to enable them to shop and compare supplier offers.   
  
 **Resolution**

While we understand the concerns expressed by PEMC, Dominion, WGES and others who object to the placement of default PTCs on customer bills, we note that, most, if not all, EDCs already place the default PTC on the bill. Since this is already occurring, it is our intent to see to it that this is being done in a fair, consistent manner that provides reasonable and accurate information to consumers while also acknowledging the space limitations on a typical utility bill. We also acknowledge that, with the current electric default service model, customers need to know their default PTC when they shop. For similar reasons, we reject UGIES and NEM’s suggestion that we change the term “Price To Compare” to something else like “Default Service Rate” because, as OCA points out, “Price To Compare” is thoroughly entrenched in almost all current consumer education literature and efforts. However, we agree with RESA and PEMC’s request that we revisit this entire issue in the future; such a reconsideration would be especially appropriate if the Investigation results in significant changes to the default model and what we currently call the “Price To Compare.”

The Commission also emphasizes, again, that it is not our intent to mandate a single, rigid statewide format for all utilities and all customer classes. Given the different market structures and bill format limitations among the various utilities and customer classes, we understand that flexibility is needed. We expect that individual utilities will consider, in good faith, the content we specify here along with their bill format limitations in order to arrive at a reasonable solution that provides the basic information we think customers need to understand their default rate and how to use that information to shop. We are willing to work with any individual utility that may present unique circumstances that we have not fully addressed in this order. The Commission also wants to repeat that it is not our intent to allow an EDC to use the guidance provided in this Order as an excuse to provide something different than what they may have agreed to provide in another proceeding. Again, we invite any EDC who thinks it may be confronted with conflicting requirements to contact OCMO for guidance.

While the Commission, like PEMC, thinks it is desirable to provide precise dates of future PTC changes, we agree with PECO that this should not be required, especially if revising the bill format to accommodate this request is cost-prohibitive. Instead, the approaches suggested by PECO and PCL&P, such as noting that the PTC will change quarterly, or specifying the months that it will change, is sufficient. For those customer classes and utilities in which the PTC changes at other intervals or does not change, this information should either be modified or omitted to accurately reflect what the general timeframes are. Furthermore, we agree with UGIES and NEMA that the phrase “can change” should be changed to “will change” because while, as OCA points out, the changes are usually minimal, the fact is that PTCs do change. Use of “can” is possibly misleading in that it suggests that a change may or may not occur, when we know from the history of PTC changes that it does indeed change quarterly.

The Commission continues to believe that, for those utilities and rate classes where an individual’s PTC can vary, the utility should provide a customer-specific PTC on the bill. At the same time, we acknowledge Duquesne’s concerns with this requirement, and ask that any utility who thinks that this requirement presents an unreasonable cost burden to contact OMCO for guidance.

Further, while we understand the desire of RESA, PEMC and Constellation that, if PTC information is to appear on the bill, it should only appear on default customer bills, we agree with OCA and insist that default PTC information should appear on all customer bills; both shopping and default. We think all customers need this information and that it is also unreasonable to require EDCs to segregate the two groups and have different bill formats for each. We also agree with OCA that the inclusion of the reference to OCA’s website ([www.oca.state.pa.us](http://www.oca.state.pa.us)), is appropriate, space permitting. For many years, OCA has made available, on its website, excellent resources for the shopping customer, including unbiased, detailed shopping guidance and price comparisons, which is invaluable when shopping for energy.

To summarize our guidance, the Commission expects EDCs to present PTC information on the bills of all customers in the following manner:

* The PTC for the customer’s rate class; or a customer-specific PTC for those EDCs and rate classes where the EDC has previously committed to provide a customer-specific PTC.  The price should be labeled “Price To Compare.”  If the PTC varies within a rate class as a function of usage characteristics, a customer-specific PTC should be provided;
* A statement indicating that the PTC will vary with an indication of the frequency of the variability;
* A reference to [www.PAPowerSwitch.com](http://www.PAPowerSwitch.com) and [www.oca.state.pa.us](http://www.oca.state.pa.us) as a source for more information (space permitting).

The following examples illustrate how this information could be presented on a customer’s bill:

**Your Price To Compare for your rate class is X.XXX per kWh through \_\_/\_\_/\_\_.  This will change quarterly.  For more information and supplier offers visit** [**www.PAPowerSwitch.com**](http://www.PAPowerSwitch.com) **and www.oca.state.pa.us.**

**Your Price To Compare for your rate class is X.XXX per kWh. This will change in March, June, October and January.  For more information and supplier offers visit** [**www.PAPowerSwitch.com**](http://www.PAPowerSwitch.com) **and www.oca.state.pa.us.**

1. **Coordination between EDCs and EGSs**
2. **EDC Supplier Charges**

During the course of the RMI technical conferences, EDC supplier charges were specifically discussed on two separate occasions. These charges would include technical support and assistance charges and load data supply charges. As a result of those discussions, it appeared that, for the most part, current EDC charges were not a significant concern or identified as an impediment to the competitive marketplace in Pennsylvania. We did note that as smart meter deployment is implemented, resulting charges for smart meter data may become an issue, but at this time there did not appear to be any substantial concern. To ensure that this issue received full consideration, we specifically requested comments that did not agree with our assessment. December 16 Order at 46-47.

**Comments**

The comments that we received on this issue were fairly general in nature. One entity, Constellation, argued that charges assessed by a single EDC, Duquesne, posed barriers. Duquesne argued that Constellation’s comments were not of a nature which should be addressed in this Intermediate Work Plan. We note that RESA also commented that Duquesne assessed a charge for data requests while other EDCs do not, unless a manual process is required.

**Resolution**

The information gathered to date does not indicate that such charges should be addressed in the context of this Intermediate Work Plan. However, we agree these types of charges may be a concern. Accordingly, we direct that Duquesne’s supplier charges may be raised by EGSs as an issue in Duquesne’s default supply program proceeding. As always, any EGS who feels that charges contained in an EDC’s supplier coordination tariff are unreasonable may challenge those charges before the Commission by filing a formal complaint against the EDC.

1. **Sample Bills**

In the December 16 Order, the Commission discussed the possibility of EDCs providing sample bills on their secure websites for access by EGSs. These sample bills would be just that, samples showing the format of various bill types for the information of the EGSs. They would not contain specific customer information and would not be subject to letter of authorization (LOA) requirements. During the technical conferences, it was suggested that three types of sample bills would be helpful for EGSs. They are: a sample bill showing the billing format when an EDC provides default service; a sample bill showing the billing format when an EDC provides a consolidated bill that included generation service provided by an EGS; and a sample bill showing the billing format under a dual bill scenario, where the EDC bills only for transmission and distribution charges. We stated that absent adverse comments, we would direct that the sample bills, as described, be made available on the EDC secure websites. December 16 Order at 46-47.

**Comments**

Based upon the comments received, there appears to be no disagreement that the sample bills as described can be posted to the EDCs’ secure websites.

**Resolution**

After noting a lack of opposition to this proposal, we direct that EDCs post the following sample bills on their respective secure websites for access by EGSs:

* A sample bill showing the billing format when an EDC provides default service;
* A sample bill showing the billing format when an EDC provides a consolidated bill, which included generation service provided by an EGS; and
* A sample bill showing the billing format under a dual bill scenario, where the EDC bills only for transmission and distribution charges.

We further direct that this posting be accomplished as soon as practicable. We note that Citizen Power suggested that the sample bills also be made available to the public on PAPowerswitch.com. We decline to adopt this suggestion. The sample billing formats are useful to the EGSs for various purposes, including mock-up bills for marketing purposes. At this time, it does not appear that posting the various sample bill scenarios on PAPowerswitch.com would be useful considering the space and design limitations.

**3. EGS Access to Customer-specific Bills**

During the technical conferences, an issue was raised regarding the ability of EGSs to access specific customer bills when trouble-shooting billing issues. In this context, a customer is an existing customer of the EGS, has provided the EGS with a Letter of Authorization (LOA) that grants the EGS permission to receive customer account information, is receiving service, and has raised a billing issue. The EGS will need to review the specific bill that is in dispute, which has generally been issued by the EDC. The EGSs expressed a need to obtain copies of the customer’s bill from the EDC as easily as possible in order to provide prompt service to the customer with bill concerns. At the present time, some EDCs will provide redacted copies of bills, showing only the generation portion of the bill while other EDCs require the EGS to obtain the bills from the customers.

Several consumer groups, including OCA, AARP/PULP/CLS, PCADV and the industrial consumers expressed substantial concerns about providing specific customer bills to EGSs. It was initially noted that a consolidated bill issued by an EDC provides more information than the generation supply and usage covered by the EGS-customer generation supply contract. These groups argued that it cannot be assumed that customers have granted EGSs permission to review an entire bill by virtue of the customer signing an LOA provided to initiate generation service.

In the December 16 Order, we acknowledged that EGSs should have the opportunity to review a specific customer’s bill in the context of trouble-shooting a billing issue, and should be able to access that bill using a minimum number of steps. We also acknowledged that there was lack of agreement about whether existing LOAs provided the EGSs permission to obtain copies of those customer bills without additional customer authorization. Finally, we sought comments on the ability of EDCs to provide copies of specific customer bills to the EGSs. December 16 Order at 46-47.

**Comments**

Generally, consumer groups, such as OCA, IECPA and PCADV, argue that existing LOAs are not sufficient to provide permission for EGSs to access specific customer bills. Conversely, RESA, PEMC and NEM argue that existing LOAs are sufficient in scope to provide access to customer bills, particularly since the EGS is endeavoring to provide service to the customer in the context of a billing issue.

With regard to the issue of EDC capability to provide customer-specific bills, the majority of the comments stated that it was possible. Since the request would most likely result in a manual process, some EDCs suggested that if the requests became too frequent or produced a high volume, EDCs may need cost recovery for the process.

**Resolution**

The Commission directs that OCMO initiate a working group to address the concerns of the consumer parties regarding the language in existing LOAs. The goal of the working group will be to develop language for LOAs that will provide authorization to EGSs to obtain copies of customer-specific bills directly from the EDCs in order to troubleshoot billing issues. Until that working group completes its mission, the current practices in each EDC service territory will be maintained.

With regard to IECPA’s comments on behalf of large C&I customers, we agree that those customers present a range of issues far beyond our vision of the LOA working group’s mission. In the context of those customers, we believe billing issues will be processed in a different fashion, with the customer more than able to provide the EGS with whatever information the EGS requires to resolve the problem. We also believe that, for those customers, information access can be better managed through contract. Our concern here lies more with the residential/small business customer.

We also find that the only issue requiring action in the Intermediate Work Plan involves the language in the LOAs. Based on the comments received, we do not perceive that EDC provision of customer-specific bills to the EGS is an issue. The capability does exist to provide copies of bills, even if a manual process is necessary. We specifically note PECO’s comments which state that these types of requests are small in number.

**4. Creditworthiness Standards**

1. **Credit Instruments**

In the Commission’s December 16 Order, we invited comments to a proposal that would use the Met-Ed’s existing creditworthiness standard,[[20]](#footnote-21) as expanded by RESA’s suggested credit instruments for EGSs that do not meet the standard. Currently, Met-Ed provides that an EGS may meet its credit obligation by demonstrating that the EGS has an investment-grade long-term bond rating from two of the four major rating agencies, i.e., Standard & Poor’s, Moody’s, Fitch or Duff & Phelps.[[21]](#footnote-22) We noted that Met-Ed’s Supplier Tariff provides the specific ratings for each rating agency that must be maintained for an EGS to meet its obligation. EGSs that maintain those long-term bond ratings do not have to submit additional security to the EDC. December 16 Order at 48-49.

For EGSs that do not meet the long-term bond rating criteria, RESA suggested that credit obligations could be met by any one of the following credit arrangements in a format acceptable to the EDC: an irrevocable Letter of Credit; a Parental Guarantee from a creditworthy corporate parent, i.e., a parent meeting the bond rating requirements; a Surety Bond; a cash deposit established with the EDC; including the EDC as a beneficiary; or other mutually agreeable security arrangement. Subject to comments, we tentatively found that the Met-Ed long-term bond rating criteria with RESA’s proposed credit instruments addressed this Commission’s credit-worthiness concerns. December 16 Order at 49.

**Comments**

PECO comments that its current Supplier Coordination Tariff provides that an EGS is creditworthy if it pays PECO’s charges when due and otherwise complies with the rules in its Tariff and the applicable regulations of the Commission. PECO states that, if it deems an EGS has bad credit, PECO may require a cash deposit, Letter of Credit, Surety Bond or other guarantee satisfactory to PECO. PECO may also require an EGS to post a deposit if PECO determines that the EGS is no longer creditworthy. PECO states that no additional credit standards are necessary because PECO does not assume any EGS contractual obligations, should an EGS default.

PPL expresses concern with the RESA credit instruments, particularly the use of a Surety Bond and establishing the EDC as a beneficiary. PPL states that Surety Bonds differ from state to state and may not be easily liquidated. PPL also suggests that establishing the EDC as a beneficiary may not be of value, depending upon the asset involved. Duquesne argues for a more restricted list of credit instruments, echoing PPL’s concerns regarding Surety Bonds.

**Resolution**

The Commission adopts as guidelines the Met-Ed creditworthiness standards (replacing Duff & Phelps with Dominion Bond Rating going forward) with the RESA proposed acceptable credit instruments as our preferred creditworthiness standards, including the use of a Surety Bond. We find that this approach is flexible enough to allow the current PECO standards, as well as to address PPL and Duquesne’s concerns regarding Surety Bonds and beneficiary arrangements. In the case of PECO, the standard permits EDCs and EGSs to agree to alternative standards. In the case of PPL and Duquesne, nothing in the standards requires an EDC to accept a credit instrument or beneficiary arrangement of questionable value or which cannot be realized. The standard requires the credit instrument to be in a form acceptable to the EDC. To the extent that an EGS feels a credit instrument is unfairly rejected, it may seek an appropriate remedy from the Commission.

Based upon the foregoing, to the extent that an EDC desires to mandate a more restrictive creditworthiness standard in its Supplier Coordination Tariff, it must justify any difference when its standard is at issue in an appropriate Commission proceeding. In the event that an EDC has concerns about a particular Surety Bond offered by an EGS, we strongly encourage the parties to work to reach agreement on a Surety Bond that is acceptable to both. The parties are always free to enlist OCMO to assist in arriving at a mutually agreeable result.

1. **Nature of Risk**

For EGSs that do not meet the creditworthiness standards and must post credit instruments, the essential question is what is the nature of the risk that the instruments must be designed to support? EGSs have frequently expressed concern that EDCs are requiring credit support for amounts of risk larger than the EDCs would ever confront. Conversely, EDCs argue that they must establish sufficient credit requirements to provide adequate coverage for market exposure and other fees in the event of an EGS default. During the technical conferences, the FirstEnergy Companies provided the RMI stakeholders with an explanation of its risk analysis, which is used to determine credit requirements. That risk analysis was attached to our December 16 Order as Appendix A.

In the December 16 Order, we expressed continued concern that any risk assessment used by EDCs should not project a “perfect storm” in which every possible event goes wrong and every possible financial loss comes to rest with the EDC. We also expressed concern that a risk assessment must factor in risks that are already subject to credit requirements such that an EDC would not reasonably be expected to incur those costs in the event of an EGS default. December 16 Order at 51.

Despite repeated efforts during the technical conferences by EGSs and EDCs, Commission Staff was unable to obtain sufficient information to determine whether or not existing credit requirements are inadequate, appropriate or over-demanding given the risk actually confronted by the EDCs. We emphasized that, despite our concerns, no alternative risk assessment models were provided during the technical conferences. Due to the lack of specific and instructive information on this issue, we invited comments on whether a uniform risk assessment could be adopted for the larger EDCs in the Commonwealth and what such a risk assessment would be. Alternatively, we invited comments on the issue of whether a working group should be established that could focus on this issue. December 16 Order at 52.

**Comments**

Given the nature of the discussions during the technical conference, it is unfortunate that the comments to our December 16 Order also do not provide sufficient, detailed information to enable a resolution of this issue at this time. PPL and Duquesne suggest that a separate working group would be a better format for moving this issue forward.

**Resolution**

We find that the risk assessment issue will be better addressed in the context of a working group organized specifically to examine that issue. Accordingly, we direct OCMO, in conjunction with personnel from the Commission’s Bureau of Technical Utility Services, to form a Risk Assessment Working Group on this issue. We expect this working group to provide a report addressing this issue to the Commission by end of the third quarter of 2012.

**CONCLUSION**

For the reasons described herein, the Commission is adopting this Intermediate Work Plan to provide guidance on those issues, tasks and goals that can be resolved and implemented prior to the expiration of the EDCs’ next round of default service plans.

**THEREFORE,**

**IT IS ORDERED:**

1. That the Intermediate Work Plan, as set forth in this Final Order, is adopted.

2. That this Final Order shall be served on all Electric Distribution Companies, all licensed Electric Generation Suppliers, the Bureau of Investigation and Enforcement, the Office of Administrative Law Judge, the Office of Consumer Advocate, the Office of Small Business Advocate, the Energy Association of Pennsylvania, and all other parties who filed comments or testified in Phases I and/or II of the Retail Market Investigation.

3. That a copy of this Final Order shall be filed at Docket No. I-2011-2237952 and posted on the Commission’s website at the Retail Markets Investigation web page: <http://www.puc.state.pa.us/electric/Retail_Electricity_Market.aspx>.

4. That the Office of Competitive Market Oversight shall electronically send a copy of this Final Order to all persons on the contact list for the Committee Handling Activities for Retail Growth in Electricity, and to all persons on its contact list for the *Investigation of Pennsylvania’s Retail Electricity Market.*

5. That Metropolitan-Edison Company, Pennsylvania Electric Company, West Penn Power Company, Duquesne Light Company, PECO Energy Company, PPL Electric Utilities, Inc., Pike County Light and Power Company and UGI Utilities, Inc. – Electric Division shall complete the mailing of consumer education materials consisting of a trifold flyer in May 2012 and the EDC Letter and FAQs in October 2012 consistent with the guidance provided in this Final Order.

6. That the Office of Communications is directed to implement the small business customer outreach initiative as set forth in this Final Order. The initiative involves the expansion of PAPowerSwitch.com website to provide small business customers with comparative pricing data along with other terms and conditions from various suppliers in their service territories.

7. That all Electric Distribution Companies shall implement a New/Moving customer referral program consistent with the guidance provided in this Final Order. The program shall be operational no later than end of the fourth quarter of 2012.

8. That the Office of Competitive Market Oversight in conjunction with the Office of Communications shall initiate a working group of Electric Distribution Companies, Electric Generation Suppliers and other interested parties to develop appropriate call center scripts for New/Moving customer referral programs. The scripts shall be completed no later than the end of the second quarter of 2012.

9. That Electric Distribution Companies shall implement a Standard Offer Customer Referral Program consistent with the guidance provided in this Final Order. The company should include a proposal for a Standard Offer Customer Referral Program in its upcoming default service plan filing, or should amend a plan that is currently pending Commission review to include such a proposal.

10. That Citizens Electric Company of Lewisburg and Wellsboro Electric Company shall be exempted from implementing the Standard Offer Customer Referral Program as set forth in this Final Order.

11. That, in lieu of implementing the Standard Offer Customer Referral Program, Pike County Light & Power Company shall implement the PowerSwitch program of its parent company, Orange and Rockland Utilities, Inc., in its service territory.

12. That Electric Distribution Companies shall implement a Retail Opt-In Auction Program consistent with the guidance provided in this Final Order. The company should include a proposal for the auction in its upcoming default service plan filing, or should amend a plan that is currently pending Commission review to include such a proposal.

13. That Wellsboro Electric Company, Citizens Electric Company of Lewisburg, Pike County Power & Light Company and UGI Utilities, Inc. –Electric Division shall not be required to implement a Retail Opt-in Auction, but may be required to do so in the future.

14. That all Electric Distribution Companies are expected to present “Price to Compare” (PTC) information on the bills of all customers consistent with the guidance provided in this Final Order. Specifically the following information is included:

* The PTC for the customer’s rate class; or a customer-specific PTC for those EDCs and rate classes where the EDC has previously committed to provide a customer-specific PTC.  The price should be labeled “Price To Compare.”  If the PTC varies within a rate class as a function of usage characteristics, a customer-specific PTC should be provided;
* A statement indicating that the PTC will vary with an indication of the frequency of the variability;
* A reference to [www.PAPowerSwitch.com](http://www.PAPowerSwitch.com) and [www.oca.state.pa.us](http://www.oca.state.pa.us) as a source for more information (space permitting).

15. That, as soon as practical, but no later than 30 days from the date of entry of this Final Order, all Electric Distribution Companies shall post on their websites the following sample bills to be accessed by Electric Generation Suppliers:

* A sample bill showing the billing format when an EDC provides default service;
* A sample bill showing the billing format when an EDC provides a consolidated bill, which included generation service provided by an EGS; and
* A sample bill showing the billing format under a dual bill scenario, where the EDC bills only for transmission and distribution charges.

16. That the Office of Competitive Market Oversight shall initiate a working group of Electric Distribution Companies, Electric Generation Suppliers and other interested parties to review and revise the Letter of Authorization to include language that will authorize an Electric Generation Supplier to access or be provided with information and data related to a specific customer’s account not only to initiate service, but also to provide billing and other customer care service over the course of the supplier’s business relationship with the customer.

17. That the Office of Competitive Market Oversight in conjunction with personnel from the Commission’s Bureau of Technical Utility Services shall initiate a Risk Assessment Working Group of Electric Distribution Companies, Electric Generation Suppliers and other interested parties to study risk assessment models and to recommend whether a uniform risk assessment model should be adopted.

 **BY THE COMMISSION,**

Rosemary Chiavetta

Secretary

(SEAL)

ORDER ADOPTED: March 1, 2012

ORDER ENTERED: March 2, 2012

1. For ease of reference, the actual Investigation will be referred to as either the Investigation or RMI. [↑](#footnote-ref-2)
2. American Association of Retired Persons (AARP), American Public Power Association, BlueStar Energy Services, Brighten Energy, Citizen Power, Citizens' Electric and Wellsboro Electric, City of Philadelphia, Community Legal Services of Philadelphia, Consolidated Edison Solutions, Constellation NewEnergy and Constellation Energy Commodities Group, Direct Energy Services, Dominion Retail, Duquesne Light, Energy Association of PA (EAP), Exelon, FirstEnergy Solutions, Future Times Energy Aggregation Group, Hess Corporation, Industrial Energy Consumers of Pennsylvania (IECPA) and Other Industrial User Groups, Liberty Power, Metropolitan-Edison Co. (MetEd), Pennsylvania Electric Co. (Penelec), West Penn Power Co. (West Penn) and Pennsylvania Power Company (Penn Power) - the FirstEnergy Companies, Mid-Atlantic Renewable Energy Association, National Energy Marketers Association, NRG Energy, Office of Consumer Advocate, Office of Small Business Advocate, PA Coalition Against Domestic Violence, PA Energy Marketers Coalition (PEMC), PA Utility Law Project, PennFuture, PPL Electric Utilities and PPL EnergyPlus, ResCom Energy, Retail Energy Supply Association, State Representative C. George, Stream Energy PA, Washington Gas Energy Services, and York Solid Waste & Refuse Authority. [↑](#footnote-ref-3)
3. <http://www.puc.state.pa.us/electric/Retail_Electricity_Market.aspx> [↑](#footnote-ref-4)
4. A recap of these conferences is also available on the Commission’s website at: <http://www.puc.state.pa.us/electric/Retail_Electricity_Market.aspx> [↑](#footnote-ref-5)
5. Direct Energy Services, LLC, Duquesne Light Co., EAP, Pennsylvania Energy Marketers Coalition (PEMC), Office of Consumer Advocate (OCA), FirstEnergy Solutions Corp., Dominion Retail, Inc. and Interstate Gas Supply, Inc., PECO Energy Co., Met-Ed, Penelec, West Penn Power and Penn Power - the FirstEnergy Companies, and IECPA and Other Industrial User Groups. [↑](#footnote-ref-6)
6. The Commission also directed OCMO to present a long-range work plan in the first quarter of 2012, which will recommend how to structurally change the existing default service model. July 28 Order at 10. [↑](#footnote-ref-7)
7. The Secretarial Letter was issued at Docket No. I-2011-2237952. Link: <http://www.puc.state.pa.us/pcdocs/1157950.doc> [↑](#footnote-ref-8)
8. For example, PECO filed a petition seeking approval of and cost recovery for its 2012 Consumer Education Plan, which includes the cost of producing and mailing the three consumer education documents described in this Order. We granted this petition by order entered January 27, 2012. *Petition of PECO Energy Company for Expedited Approval of its 2012 Consumer Education Plan*, Docket No. P-2011-2279773 (order entered January 27, 2012). [↑](#footnote-ref-9)
9. A “hot transfer” is the capability of the EDC call center representative to immediately transfer the customer’s call to the selected EGS without any delay or other action required to be taken by the customer. [↑](#footnote-ref-10)
10. The RMI Universal Service Subgroup held its first meeting on February 16, 2012. [↑](#footnote-ref-11)
11. *Petition of PECO Energy Company for Approval of Its Default Service Program*, Docket No. P-2012-2283641. [↑](#footnote-ref-12)
12. *Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Electric Company and West Penn Power Company*, Docket No. P-2001-2273650, P-2011-22273668, P-2011-22273669 and P-2011-22273670. [↑](#footnote-ref-13)
13. Note that “discriminatory” and “discrimination” as used throughout this order should be interpreted to mean discriminatory or discrimination in the general, and not the legal, sense. However, the Commission believes that the customer referral program and the retail opt-in auction proposed herein extend reasonable and limited preferences to selected customers and EGSs that do not constitute discrimination in rates or service in violation of either Section 1304 or Section 1502 of the Public Utility Code. *See* 66 Pa.C.S. §1304 (relating to discrimination in rates); § 1502 (relating to discrimination in service). [↑](#footnote-ref-14)
14. *Small business customer*—The term refers to a person, sole proprietorship, partnership, corporation, association or other business entity that receives electric service under a small commercial, small industrial or small business rate classification, and whose maximum registered peak load was less than 25 kW within the last 12 months. See 52 Pa. Code § 54.2 (relating to definitions). [↑](#footnote-ref-15)
15. *Interim Guidelines Regarding Advance Notification by an Electric Generation Supplier of Impending Changes Affecting Customer Service; Amendment re: Supplier Contract Renewal/Change Notices*, Docket No. M-2010-2195286 (order entered September 23, 2010). [↑](#footnote-ref-16)
16. *See* 52 Pa Code § 54.4 (relating to bill format for residential and small business customers), § 56.15 (relating to billing information) and § 69.251 (relating to plain language-statement of policy). Note that these regulations are only applicable to residential and small business customers.  [↑](#footnote-ref-17)
17. Section 54.187(b) (relating to default service rate design and the recovery of reasonable costs) does require that a default service provider offer a default service customer “a single rate option, which [is] identified as the PTC and [which is] displayed as a separate line item on the customer’s monthly bill.”  However, it does not require that the PTC be placed on all customer bills.  It is noted, without further comment, that this provision remains unchanged in the Commission’s rulemaking, *Implementation of Act 129 of October 15, 2008; Default Service and Retail Electric Markets*, Docket No. L-2009-2095604. [↑](#footnote-ref-18)
18. Note that the use of customer-specific vs. rate class average PTCs is only an issue for those EDCs and rate classes that use variable and/or block rate structures.  As these kinds of rate structures continue to be phased-out, this will become less of an issue in the future. [↑](#footnote-ref-19)
19. *Petition of PECO Energy Company for Expedited Approval of its Default Service Program and Rate Mitigation Plan*, Docket No. P-2008-2062739 (order entered September 23, 2010), Section D. Tariff Changes, Rate Design and Cost Recovery, ¶¶ 50 and 51. [↑](#footnote-ref-20)
20. The Met-Ed standards were attached to the December 16 Order in Appendix A. [↑](#footnote-ref-21)
21. PPL observes that Duff & Phelps is no longer a major rating agency and recommends that Dominion Bond Rating replace Duff & Phelps in the list of four rating agencies. [↑](#footnote-ref-22)