

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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IRWINA. POPOWSKY  
Consumer Advocate

August 31, 2012

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

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

Dear Secretary Chiavetta:

Enclosed please find the Office of Consumer Advocate's Petition for Clarification  
in the above referenced proceeding.

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

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "Aron J. Beatty".

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

Enclosures

cc: Hon. Elizabeth H. Barnes  
Certificate of Service

151293

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

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PETITION FOR CLARIFICATION  
OF THE OFFICE OF CONSUMER ADVOCATE

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The Office of Consumer Advocate (OCA) hereby submits this Petition pursuant to Sections 5.572 and 5.41 of the Public Utility Commission's (PUC or Commission) regulations. See, 52 Pa. Code §§ 5.572, 5.41. The OCA respectfully requests that the Commission clarify its Order entered August 16, 2012 in the above-captioned case regarding certain aspects of the implementation of the Retail Opt-In Aggregation Program.

I. INTRODUCTION

On August 16, 2012, the Pennsylvania Public Utility Commission (Commission) entered an Opinion and Order (August 16 Order) in the above-captioned consolidated proceeding involving the Default Service Plans of Metropolitan Edison Company (Met-Ed), Pennsylvania Electric Company (Penelec), Pennsylvania Power Company (Penn Power), and West Penn Power Company (West Penn)(Collectively, the Companies).

In its Order, the Commission rejected the Companies' proposed twelve month retail opt-in auction program, and replaced it with a twelve month Retail Opt-In Aggregation Program. The OCA seeks clarification of the Commission's Order as it relates to the Retail Opt-

In Aggregation Program. Clarification is necessary where the OCA submits that the Commission's Order may have been unclear as to its ruling or may have overlooked certain matters. In this instance, the OCA respectfully submits that the Commission should clarify three aspects of the retail opt-in aggregation programs. First, the OCA requests that the Commission clarify that the 5% discount for the first four months of the twelve month program is intended to provide customers a 5% discount off of the price to compare of June 1, 2013. Second, the OCA seeks clarification of whether all participants in the twelve month retail opt-in aggregation program are to receive service under the same price terms for the eight month component of the program. If this is not the case, the OCA respectfully requests that the Commission clarify how prices will be set, what criteria will be used to determine reasonable terms, and how the commission will assign customers based on different offers. Third, the OCA seeks clarification as to the consultative process to be conducted by the Companies regarding implementation details for the Retail Opt-In Aggregation Program.

## II. STANDARD OF REVIEW

As set forth in Duick v. Pennsylvania Gas and Water Co., 56 Pa.P.U.C. 553 (1985), the standards for granting a petition for reconsideration are as follows:

A petition for reconsideration, under the provisions of 66 Pa.C.S. § 703(g), may properly raise any matters designed to convince the Commission that it should exercise its discretion under this code section to rescind or amend a prior order in whole or in part. In this regard we agree with the Court in the Pennsylvania Railroad Company case, wherein it was stated that “[p]arties ..., cannot be permitted by a second motion to review and reconsider, to raise the same questions which were specifically considered and decided against them ...” What we expect to see raised in such petitions are new and novel arguments, not previously heard, or considerations which appear to have been overlooked or not addressed by the Commission. Absent such matters being presented, we consider it unlikely that a party will succeed in

persuading us that our initial decision on a matter or issue was either unwise or in error.

56 Pa.P.U.C. at 559 (quoting Pennsylvania R.R. Co. v. Pa. Pub. Util. Comm'n, 118 Pa. Super. 380, 179 A. 850 (1935))(emphasis added).

In this Petition, the OCA raises points not previously heard or considered and which the Commission may have overlooked. The OCA seeks clarification of the methodology by which the terms and conditions of the Retail Opt-In Aggregation Program will be implemented. In addition, the OCA seeks clarification of the Commission's Order to the extent the OCA and other interested stakeholders were not mentioned by the Commission as participants in the consultative process concerning retail opt-in aggregation implementation issues ordered by the Commission. For the reasons set forth below, the OCA submits that the Commission should grant clarification of the issues raised in this Petition.

### III. REQUEST FOR CLARIFICATION

In its August 16 Order, the Commission made a substantial modification to the Retail Market Opt-In Auction proposed by the Companies. As initially proposed, the Companies would allow EGSs to participate in an auction designed to encourage customer participation in a 12-month program. The opt-in auction concept was originally proposed to utilize a competitive solicitation that would establish the price terms for the duration of the twelve month program. Several parties recommended modifications to the Companies' proposal but the proposals did not change the method for establishing the price term.

The Opt-In Auction concept was developed, initially, in the intermediate stage of the Commission's Investigation into Pennsylvania's retail electricity market. Investigation of Pennsylvania's Retail Electricity Market: Intermediate Work Plan, Docket No. I-2011-2237952

(Order entered March 2, 2012) (IWP Order) at 33-85. In the IWP Order, the Commission addressed the potential for a fixed price discount over the 12 month Opt-In Period, as follows:

[W]e 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.

IWP Order at 70.

In its August 16 Order, the Commission eliminated the competitive solicitation element of the opt-in model that would set the price terms and replaced it with a predetermined, guaranteed price discount off the Price to Compare (PTC) at the time of enrollment for the first four months of the program, a \$50 bonus at the end of the fourth month, and then a price change to a new fixed rate for months five through twelve. August 16 Order at 108-109. The Commission described this change as follows:

As discussed, *infra*, we have modified the Companies' proposal by eliminating the proposed ROI Auction. Instead, we are directing the Companies to implement an ROI Aggregation Program, consisting of a one-year product comprised of five percent off the PTC at the time of enrollment for four months, a fixed price for the remaining eight months and inclusion of a fifty dollar bonus, to be paid at the conclusion of the initial four-month period.

August 16 Order at 108.

Initially, the OCA requests that the Commission clarify the discount for the first four months of the program. The Commission directed a 5% discount off the PTC "at the time of enrollment." The OCA requests that the Commission clarify that the PTC at the time of

enrollment is referring to the PTC on June 1, 2013, the start of the Retail Opt-In Aggregation Program. It is the OCA's understanding that it is the intent of the Commission to provide a guaranteed discount at the start of the program. Since there may be a slight time difference between the enrollment process dates and the start of the program discount, the OCA requests that the Commission clarify its intent.

The Commission also did not specify how the price for the remaining eight months of the 12-month program would be determined, and whether all customers participating in the program would receive the same price. The Commission has found that the opt-in aggregation program would be a 12-month program, but has not identified how the price for months five through twelve would be established. The Commission did, however, address a review of the terms after month four, as follows:

So that we can fully evaluate the terms of this program, we will require that participating EGSs provide to the Commission for review and approval, the terms and conditions of the eight-month ROI fixed-price offering. With these improvements, we believe this product offering will be attractive enough to garner EGS support and, more importantly, customer participation in the ROD Program.

August 16 Order at 118. It is not clear to the OCA what this review would entail, when it would be conducted, or whether it is intended to ensure that the terms and conditions of the 8-month component of the aggregation program are uniform across all participating EGSs.

The OCA submits that it is important that customers participating in this program are fully informed about the program including the method for establishing the pricing terms after the first four months. The OCA also submits that from a program design perspective, it is important to establish whether all participating customers will be paying the same rates over the course of the program. It is unclear from the Commission's Order whether this is the intent of

the Commission's Order. If it is the Commission's intent that participating EGSs can charge different prices for the latter eight month component of the program, questions regarding proper information to customers, and how customers will be assigned to individual EGSs will be presented. Under this approach, the Commission and EDCs will be sponsoring a twelve month program for customers but it is possible that customers entering the same program could be treated very differently only one-third of the way into the program. The OCA submits that the Commission should clarify its intent so that proper notification and enrollment processes can be designed based upon the Commission's intended program structure.

In addition, as the Commission recognizes, there are several implementation issues that must be addressed with the change to a Retail Opt-in Aggregation format. The Commission's Order instructs the Companies to consult with EGSs regarding implementation issues, as follows:

Therefore, within sixty days of the entry of this Opinion and Order, the Companies, in consultation with the EGSs, shall update their proposals for customer notification, opt-in enrollment and customer assignment to coordinate with this revised ROI Program design, *infra*.

August 16 Order at 109.

The OCA submits that the Commission should clarify that in the consultative process concerning the opt-in aggregation program, the Companies should include the OCA and other interested stakeholders. The issues that must be addressed, including customer notification and assignment, are critical to program success. The OCA submits that it should be permitted to work with the Companies, the EGSs, and other interested stakeholders regarding these residential customer program issues.

IV. CONCLUSION

For these reasons, the OCA respectfully requests that the Commission clarify its decision as requested above.

Respectfully Submitted,



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CERTIFICATE OF SERVICE

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

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

Dated this 31st day of August 2012.

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