



100 Pine Street • PO Box 1166 • Harrisburg, PA 17108-1166  
Tel: 717.232.8000 • Fax: 717.237.5300

Elizabeth P. Trinkle  
Direct Dial: 717.237.5378  
Direct Fax: 717.260.1759  
etrinkle@mwn.com

December 10, 2012

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2nd Floor  
Harrisburg, PA 17120

**VIA ELECTRONIC FILING**

**RE: Investigation of Pennsylvania's Retail Electricity Market:  
End State of Default Service; Docket No. I-2011-2237952**

Dear Secretary Chiavetta:

Enclosed please find the Comments of Citizens' Electric Company of Lewisburg, PA, and Wellsboro Electric Company, regarding the above-referenced proceeding.

Sincerely,

McNEES WALLACE & NURICK LLC

By

A handwritten signature in black ink, appearing to be 'Elizabeth P. Trinkle', written over a horizontal line.

Elizabeth P. Trinkle

Counsel to Citizens' Electric Company of Lewisburg, PA,  
and Wellsboro Electric Company

EPT/sar  
Enclosure

c: Office of Competitive Market Oversight Retail Markets Investigation  
(via E-mail: [ra-RMI@pa.gov](mailto:ra-RMI@pa.gov))

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**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Investigation of Pennsylvania's Retail Electricity : Docket No. I-2011-2237952  
Market: End State of Default Service :

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**COMMENTS OF  
CITIZENS' ELECTRIC COMPANY OF LEWISBURG, PA, AND  
WELLSBORO ELECTRIC COMPANY**

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**I. INTRODUCTION**

On November 8, 2012, the Pennsylvania Public Utility Commission ("PUC" or "Commission") issued its Tentative Order setting forth the proposed end state of default electric service in Pennsylvania, as proposed by the PUC's Office of Competitive Market Oversight ("OCMO").<sup>1</sup> The Tentative Order outlines fundamental changes to the default service structure based on a number of issues raised by stakeholders participating in the Commission's pending Investigation of Pennsylvania's Retail Electricity Market ("RMI"). Citizens' Electric Company of Lewisburg, PA ("Citizens"), and Wellsboro Electric Company ("Wellsboro") (collectively, "Companies") submit these Comments in response to the Tentative Order. As small jurisdictional electric distribution companies ("EDCs"), the adopted default service structure will have a significant impact on Citizens' and Wellsboro.

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<sup>1</sup> *Investigation of Pennsylvania's Retail Electricity Market: End State of Default Service*, Docket No. I-2011-2237952 (Tentative Order entered Nov. 8, 2012) ("Tentative Order").

## II. COMMENTS

### A. "Prevailing Market Price" Methodology May Not Be in the Best Interest of Consumers and Will Require Legislative Action

The Tentative Order cites the original language of Electricity Generation Customer Choice and Competition Act, which required a default service product reflecting "prevailing market prices."<sup>2</sup> However, as the Commission points out, Act 129 of 2008 added extensive language to this provision requiring Default Service Providers ("DSPs") to procure default service utilizing a "prudent mix of spot market purchases, short-term contracts and long-term purchase contracts."<sup>3</sup> The Commission argues that while the intent of Act 129 was to ensure the "least cost to consumers over time," the effect of its mandates have resulted in a highly regulated default service product that has little relationship to market price.<sup>4</sup>

Reverting back to the "prevailing market price" methodology in the default service structure may not be in the best interest of consumers. The Commission acknowledges in the Tentative Order that "it is not clear" whether Act 129's statutory requirements have hampered the "least cost to consumers" mandate over the last several years.<sup>5</sup> For instance, the Commission's contention that "data shows that spot market prices tend to produce the 'least cost to consumers'" may or may not be correct depending on the default service customer and whether the markets are rising or falling.<sup>6</sup> As the Commission may recall, the Companies have been filing benchmark reports comparing the results of the portfolio procurement approach to other potential purchasing strategies, including a spot market approach. In many quarters and years, the forward purchased portfolio used by the Companies produced lower wholesale costs than a spot market strategy

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<sup>2</sup> See 66 PA. CONS. STAT. § 2807 (West 2012).

<sup>3</sup> See Tentative Order at 10 (citing 66 PA. CONS. STAT. § 2807(e)(3.2)).

<sup>4</sup> See *id.* at 12.

<sup>5</sup> See *id.*

<sup>6</sup> See *id.*

would have produced. In addition, the proposed new quarterly default service auctions may result in more volatile rates for customers who remain on default service. The legislators in the General Assembly are in the best position to determine the appropriate balance and goals for Pennsylvania's consumers.

As the Tentative Order recognizes, deviating from the mandates of Act 129, which explicitly requires DSPs to utilize a prudent mix of products for default service, would necessitate a legislative change before the Commission may act.<sup>7</sup> If the Commission proceeds with the proposed default service structure, such a dramatic departure from the current structure, at a minimum, should include the full input of all stakeholder views before implementation. The legislators should have the opportunity to review all relevant information in making the policy decision regarding whether to revert to the prevailing market price standard for default service.

**B. The Commission Should Clarify its Alternative DSP Proposal and Consider A State-Wide Energy Pool Backstop for DSP Services**

The Companies support the Commission's proposal to retain EDCs as DSPs for all customer groups. However, the Competition Act and the Commission's regulations permit the Commission to authorize an alternative DSP. It would be beneficial to the stakeholders for the Commission to clarify how this option would be implemented. For example, if the Commission will permit EDCs to be removed as DSP in their service territory, will that removal be permanent? Requiring EDCs to be thrown into and out of the DSP role would create instability in the electric retail market and cause reliability issues for default service customers, and may discourage an existing DSP from even considering a proposal for an alternative DSP. The Commission should further clarify under what circumstances the PUC, on its own motion, would relieve an EDC of its DSP obligations.

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<sup>7</sup> Act 129 requires a "prudent mix" of spot market, short-term and long-term purchase contracts for the provision of "adequate reliable service" and the "least cost to customers over time." 66 PA. CONS. STAT. § 2807(e)(3.4).

One option that could be explored in conjunction with the alternate DSP is a statewide "agency" backstop to serve as DSP in the event that the alternative DSP fails. An EGS could take over the Companies' DSP obligations, and the statewide agency rather than the EDC would serve the backstop, or if the EGS fails to serve. The "agency" could provide a backstop price based on spot market or other indicators, and that price may not necessarily be "least cost". Providing a state-sponsored fallback DSP in the event that an appointed alternative DSP fails would alleviate customer concerns about EGS reliability and encourage greater retail market shopping.

**C. The Proposed End State Should Be Flexible and Allow for Rational Application**

The Commission has proposed that the changes announced in the Tentative Order be applicable to all jurisdictional EDCs in Pennsylvania. The Companies urge the Commission to retain flexibility in the applicability of the proposed end state to ensure the default service model is rational for each EDC. Citizens' and Wellsboro have been operating under a portfolio procurement approach since 2008 and have received approval of their procurement plan through May 31, 2015. The Commission's regulations urged each EDC to develop a procurement plan that would meet the needs and characteristics of its territory, even before the legislative changes in 2008 that replaced the "prevailing market" standard. Retaining this discretion in the next phase of default service is appropriate to meet implementation issues and problems that cannot be fully predicted at this time. The Commission should proceed cautiously and consider the impact of the proposed default service structure on small jurisdictional EDCs before mandating its universal applicability.

**D. For Smaller DSPs, The Commission Should Further Analyze Whether to Apply the New Default Service Procurement Structures**

The Commission proposes that EDCs offer hourly locational marginal pricing ("LMP") for medium and large commercial and industrial ("C&I") customers, while continuing to offer fixed, quarterly Prices To Compare ("PTCs") for residential and small C&I customers that are determined through quarterly full requirements auctions. For purposes of default service, medium and large C&I customers include "those accounts with demand of 100 kW or greater."<sup>8</sup> In cases where it is impracticable to create default service subclasses, the Commission will permit EDCs to designate a delineating point between small and medium/large C&I customers based on the EDC's existing rate schedules. The Commission encouraged the smaller DSPs to highlight issues of concern that may make this approach difficult to implement in their territories.

The Companies oppose dividing customers into different product categories for purposes of default service. To date, both Citizens' and Wellsboro have a single option for all customers with respect to default service. The Companies are concerned that segregating customers into separate procurement groups may diminish the attractiveness of the wholesale supply product to suppliers. In addition, although the Companies' metering systems are capable of supporting an hourly price for larger customers, the Companies are currently assessing the requirements for rendering bills based on hourly data. Because the Companies' billing software vendor is not currently equipped to provide this service for other clients, the Companies are concerned that significant costs may be necessary to upgrade their billing systems or, alternatively, to manually process bills.<sup>9</sup>

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<sup>8</sup> Tentative Order at 16.

<sup>9</sup> For example, Citizens' estimates that it would take approximately 21 hours per month to render manual bills for the 42 customers that are over the 100 kW threshold.

Furthermore, the proposal to use tranches of full requirements, load-serving contracts may not be feasible for small jurisdictional EDCs such as Citizens' and Wellsboro. Specifically, even if the large and medium customers are in the procurement groups, the tranches may be too small and unattractive to wholesale suppliers. Unlike larger EDCs that can offer multiple 50 MW tranches to wholesale suppliers, the combined load of Citizens' and Wellsboro is just over 50 MW. While it may be possible to conduct a quarterly full requirements solicitation for a single tranche for each territory, the Commission should consider the possibility that no suppliers will be interested in the territory and develop a contingency plan prior to making a decision to include the Companies in the new approach. For example, could the Citizens' and Wellsboro load be included in the default service solicitations of the larger utilities? If this is feasible, how will the forecasting and reconciliation occur? Implementation issues such as this should be discussed and resolved prior to making a binding decision to include the smaller DSPs in the new structure.

In addition, moving to quarterly full requirements, load-serving contracts for residential and small C&I customers may not address the over and under-collection issue the Commission is attempting to eliminate. The full requirements tranches are delivered on a calendar quarter basis. As such, unless all customers have their meter read on the first day of the month, the customers' generation bills will be pro-rated, and over or under-collection will continue to occur, resulting in a PTC that does not reflect market conditions. If the Commission chooses to implement this default service model, however, it should explore whether wholesale suppliers could take on this collection risk associated with these full requirements, load-serving contracts to alleviate the burden on small EDCs.

Finally, implementing the new structure will require Citizens' and Wellsboro to upgrade their information systems to facilitate the additional electronic interactions with both retail and wholesale suppliers. Alternatively, the Companies are exploring the use of a third-party vendor to provide Electronic Data Interchange ("EDI") services. The Commission should confirm that the Companies will be entitled to full and timely recovery of the costs to implement EDI, billing system changes and other activities related to implementation of customer choice from EGSs and/or in a nonbypassable generation rider. This would be consistent with the opportunity that larger EDCs had during their restructuring proceedings to obtain stranded cost compensation for these types of transition costs.<sup>10</sup>

**E. The Commission Should Not Require EDCs to Offer Supplier Consolidated Billing ("SCB")**

The Commission's proposal to explore the implementation of an SCB billing option, which would unbundle billing and collection costs for the PTC, is of great concern to the Companies. The Companies urge the Commission to reconsider this aspect of the Tentative Order.

Cost recovery is paramount for small EDCs like Citizens' and Wellsboro; a billing option that could potentially hamper and delay payments for distribution service could cause significant financial harm to these utilities. Citizens' and Wellsboro do not make a profit on generation services, but are afforded the opportunity to earn a return through distribution rates. That profit is diminished if the lag between billing and collection is increased, as it may be under SCB, or if the percentage of uncollectible accounts increases.

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<sup>10</sup> Neither Citizens' nor Wellsboro owned generation resources in 1996 when the Competition Act was passed. As a result, with the exception of a small amount of wholesale stranded costs that were claimed by Citizens' wholesale supplier, neither Company claimed stranded costs during the initial restructuring proceedings.

Even though the Commission intends for SCB to be a non-mandatory "option" for EGSs, EDCs would still be required to maintain their existing billing systems for default service customers and for customers served by EGSs that do not offer SCB. No financial burden would be taken away from EDCs by providing an SCB option, and a greater burden may be imposed through costs associated with coordinating with EGSs regarding SCB.

Furthermore, EGS supporters of SCB have argued that SCB facilitates a "relationship" with their customers, and that EDCs' billing mechanisms are a barrier to building relationships. However, the Dual Billing Option already in place gives EGSs an ample opportunity – in fact, the same opportunity to create customer relationships – as would be made available by SCB. Finally, critical issues such as customer dispute resolution, payment mechanisms, *etc.*, must be resolved before any SCB billing option could be implemented.

**F. Additional Time Is Necessary to Review the Feasibility and Programming Costs Associated with Accelerated Switching**

The Tentative Order invites comment on issues closely related to the switching process, including the lack of a "seamless move" for supplier's customers moving within the same EDC service territory, and "day one switching," which would allow EGSs to supply service starting on "day one" of new utility service rather than requiring the customer to begin on default service.<sup>11</sup> The Companies are capable of both "seamless move" and "instant connect" at this time through manual processing; however, the Companies believe it would be prudent to allow additional time to determine the feasibility and programming costs associated with these switching programs.

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<sup>11</sup> See Tentative Order at 31.

**G. Review of Alternative Energy Credits ("AEC") Contracts in Default Service Plan ("DSP") Proceedings Will Ensure Full Cost Recovery**

The Commission proposes to hold harmless all currently effective AEC contracts, as well as any other energy contracts currently in force, from any changes to Pennsylvania's retail electric market resulting from this proceeding. On a case-by-case basis, EDCs may propose the means to address cost recovery with respect to these contracts in DSP proceedings. In its recently-approved 2013-2015 DSP, the Companies proposed to procure a portion of the Reporting Period 2016 AECs in 2014. Citizens' and Wellsboro support having the opportunity to address the status of those contracts in the next DSP to ensure full recovery of these costs.

**H. The Commission Should Ensure that A Portfolio Approach for Future AEC Contracts Will Provide for Full EDC Cost Recovery and Is Feasible for Small EDCs**

The Tentative Order requests comment on whether future AEC contract procurements should include a mix of short-term, medium-term, and long-term contracts.<sup>12</sup> Requiring small EDCs to implement a portfolio approach for AECs may present some unique challenges based on how the proposal is implemented. Although the Commission presumably intends to ensure that EDCs fully recover all costs associated with short, medium and long-term AEC procurements, the Companies request that the Commission confirm this assumption in the Final Order in this proceeding. More importantly, similar to the difficulties of implementing a portfolio for energy purchases, the total AEC requirements for the territories may be too small to warrant segregation into short, medium and long-term transactions. The Commission should adopt a flexible approach that allows each EDC to determine whether such an approach is both feasible and rational for implementation in their default service proceedings.

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<sup>12</sup> See *id.* at 36-37.

**I. The Cost to Regulate EGSs Should Be Paid by EGSs Rather Than Recouped From Customers Who Do Not Use Their Services**

As the Tentative Order notes, the Commission is statutorily barred from levying assessments on EGSs.<sup>13</sup> Therefore, the PUC collects assessments related to regulating EGS from EDCs, which are then recovered by EDCs via distribution charges in a base rate case. The Commission believes the base rate case mechanism does not fully and fairly provide for recovery of assessments. Accordingly, the Commission proposes to seek the legislative changes required to allow EDCs to use an automatic surcharge mechanism to recover electric industry assessments paid to the PUC.

The Companies submit that the cost to regulate EGSs should be solely at the expense of EGSs. Unlike EDCs, which fairly recoup their own regulatory assessments through the base rate case process given that all customers use their services, recovering EGS assessments through an automatic surcharge mechanism penalizes customers that don't shop in the retail market for services they don't use. Customers that do not utilize an EGS should not subsidize their regulatory expenses. Given that the Commission does not permit EDCs to charge customers for services that they may not use, it is not reasonable to require customers not using EGS services to pay for EGS regulatory costs.

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<sup>13</sup> See *id.* at 41-42 (citing *Delmarva Power & Light Co. v. Commonwealth*, 870 A.2d 901, 911 (Pa. 2005)).

**III. CONCLUSION**

**WHEREFORE**, Citizens' Electric Company of Lewisburg, PA, and Wellsboro Electric Company respectfully request that the Pennsylvania Public Utility Commission consider and adopt, as appropriate, the foregoing Comments.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

By  \_\_\_\_\_

Pamela C. Polacek (Attorney I.D. #78276)  
Elizabeth P. Trinkle (Attorney I.D. # 313763)  
McNees Wallace & Nurick LLC  
100 Pine Street  
Harrisburg, PA 17108-1166  
Phone: 717.232.8000  
Fax: 717.237.5300  
ppolacek@mwn.com  
etrinkle@mwn.com

Counsel to Citizens' Electric Company of  
Lewisburg, PA, and Wellsboro Electric Company

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